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SENATE BILL No. 169

Proposed Changes to January 16, 2026 printing by AM016903

DIGEST OF PROPOSED AMENDMENT

Implementation. Specifies rules for treating certain statutory and administrative rule references. Provides for the continuing effect of administrative rules adopted under prior law.

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 4-6-3-3, AS AMENDED BY P.L.100-2025,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2026]: Sec. 3. (a) If the attorney general has reasonable cause
 4 to believe that a person may be in possession, custody, or control of
 5 documentary material, or may have knowledge of a fact that is relevant
 6 to an investigation conducted to determine if a person is or has been
 7 engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10,
 8 IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-8,
 9 IC 16-21-15, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8,
 10 ~~IC 24-9~~, IC 25-1-7, IC 27-1-37-8, IC 32-34-1.5, ~~<>~~ [IC 37-5, or any
 11 other statute enforced by the attorney general or is or has been engaged
 12 in a criminal violation of IC 13, only the attorney general may issue in
 13 writing, and cause to be served upon the person or the person's
 14 representative or agent, an investigative demand that requires that the
 15 person served do any combination of the following:
 16 (1) Produce the documentary material for inspection and copying
 17 or reproduction.
 18 (2) Answer under oath and in writing written interrogatories.
 19 (3) Appear and testify under oath before the attorney general or
 20 the attorney general's duly authorized representative.

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1 (b) The office of the attorney general may consult with the Indiana
2 department of health in the review of an application for a certificate of
3 public advantage under IC 16-21-15.

4 SECTION 2. IC 4-6-12-2, AS AMENDED BY P.L.52-2017,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2026]: Sec. 2. The attorney general shall establish a
7 homeowner protection unit to enforce ~~IC 24-9~~ [IC 37-5](#) and to
8 carry out this chapter.

9 SECTION 3. IC 4-6-12-3, AS AMENDED BY P.L.52-2017,
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2026]: Sec. 3. (a) The unit shall do the following:

12 (1) Investigate deceptive acts in connection with mortgage
13 lending.

14 (2) Investigate violations of ~~IC 24-9~~ [IC 37-5](#).

15 (3) Institute appropriate administrative and civil actions to
16 redress:

17 (A) deceptive acts in connection with mortgage lending;
18 and

19 (B) violations of IC 24-5-0.5 and ~~IC 24-9~~ [IC 37-5](#).

20 (4) Cooperate with federal, state, and local law enforcement
21 agencies in the investigation of the following:

22 (A) Deceptive acts in connection with mortgage lending.

23 (B) Criminal violations involving deceptive acts in
24 connection with mortgage lending.

25 (C) Violations of IC 24-5-0.5 and ~~IC 24-9~~ [IC 37-5](#).

26 (D) Violations of:

27 (i) the federal Truth in Lending Act (15 U.S.C. 1601 et
28 seq.);

29 (ii) the Real Estate Settlement Procedures Act (12
30 U.S.C. 2601 et seq.); and

31 (iii) any other federal laws or regulations concerning
32 mortgage lending.

33 To the extent authorized by federal law, the unit may
34 enforce compliance with the federal statutes or regulations
35 described in this clause or refer suspected violations of the
36 statutes or regulations to the appropriate federal regulatory
37 agencies.

38 (5) Enforce violations of IC 32-25.5-3 by homeowners
39 associations.

40 (b) The attorney general shall adopt rules under IC 4-22-2 to the
41 extent necessary to organize the unit.

42 SECTION 4. IC 4-6-12-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 5. The attorney general
2 may file complaints with any of the entities listed in section 4 of this
3 chapter to carry out this chapter and ~~IC 24-9-9~~ **IC 37-5.**

4 SECTION 5. IC 4-6-12-9, AS AMENDED BY P.L.52-2017,
5 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2026]: Sec. 9. (a) The homeowner protection unit account
7 within the general fund is established to support the operations of the
8 unit. The account is administered by the attorney general.

9 (b) The homeowner protection unit account consists of the
10 following:

- 11 (1) Fees collected under ~~IC 24-9-9~~ **IC 37-5-9.**
- 12 (2) Fees distributed to the account under IC 33-34-8-3,
13 IC 33-37-7-2(a), and IC 33-37-7-8(a).

14 (c) The expenses of administering the homeowner protection unit
15 account shall be paid from money in the account.

16 (d) The treasurer of state shall invest the money in the homeowner
17 protection unit account not currently needed to meet the obligations of
18 the account in the same manner as other public money may be invested.

19 (e) Money in the homeowner protection unit account at the end of
20 a state fiscal year does not revert to the state general fund.

21 SECTION 6. IC 4-21.5-3-6, AS AMENDED BY P.L.222-2025,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2026]: Sec. 6. (a) Notice shall be given under this section
24 concerning the following:

- 25 (1) A safety order under IC 22-8-1.1.
- 26 (2) Any order that:
 - 27 (A) imposes a sanction on a person or terminates a legal
 - 28 right, duty, privilege, immunity, or other legal interest of a
 - 29 person;
 - 30 (B) is not described in section 4 or 5 of this chapter or
 - 31 IC 4-21.5-4; and
 - 32 (C) by statute becomes effective without a proceeding under
 - 33 this chapter if there is no request for a review of the order
 - 34 within a specified period after the order is issued or served.
- 35 (3) A notice of program reimbursement or equivalent
- 36 determination or other notice regarding a hospital's
- 37 reimbursement issued by the office of Medicaid policy and
- 38 planning or by a contractor of the office of Medicaid policy and
- 39 planning regarding a hospital's year end cost settlement.
- 40 (4) A determination of audit findings or an equivalent
- 41 determination by the office of Medicaid policy and planning or
- 42 by a contractor of the office of Medicaid policy and planning

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- 1 arising from a Medicaid postpayment or concurrent audit of a
 2 hospital's Medicaid claims.
- 3 (5) A license suspension or revocation under:
- 4 (A) ~~IC 24-4.4-2~~; **IC 37-1-3**;
- 5 (B) ~~IC 24-4.5-3~~; **IC 37-2-4**;
- 6 (C) IC 28-1-29;
- 7 (D) IC 28-7-5;
- 8 (E) IC 28-8-4.1;
- 9 (F) IC 28-8-5; or
- 10 (G) IC 28-8-6.
- 11 (6) An order issued by the secretary or the secretary's designee
 12 against providers regulated by the office of the secretary, the
 13 division of aging or the bureau of disabilities services and not
 14 licensed by the Indiana department of health under IC 16-27 or
 15 IC 16-28.
- 16 (b) When an agency issues an order described by subsection (a),
 17 the agency shall give notice to the following persons:
- 18 (1) Each person to whom the order is specifically directed.
- 19 (2) Each person to whom a law requires notice to be given.
- 20 A person who is entitled to notice under this subsection is not a party
 21 to any proceeding resulting from the grant of a petition for review
 22 under section 7 of this chapter unless the person is designated as a
 23 party in the record of the proceeding.
- 24 (c) The notice must include the following:
- 25 (1) A brief description of the order.
- 26 (2) A brief explanation of the available procedures and the time
 27 limit for seeking administrative review of the order under section
 28 7 of this chapter.
- 29 (3) Any other information required by law.
- 30 (d) An order described in subsection (a) is effective fifteen (15)
 31 days after the order is served, unless a statute other than this article
 32 specifies a different date or the agency specifies a later date in its order.
 33 This subsection does not preclude an agency from issuing, under
 34 IC 4-21.5-4, an emergency or other temporary order concerning the
 35 subject of an order described in subsection (a).
- 36 (e) If a petition for review of an order described in subsection (a)
 37 is filed within the period set by section 7 of this chapter and a petition
 38 for stay of effectiveness of the order is filed by a party or another
 39 person who has a pending petition for intervention in the proceeding,
 40 an administrative law judge shall, as soon as practicable, conduct a
 41 preliminary hearing to determine whether the order should be stayed in
 42 whole or in part. The burden of proof in the preliminary hearing is on

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1 the person seeking the stay. The administrative law judge may stay the
 2 order in whole or in part. The order concerning the stay may be issued
 3 after an order described in subsection (a) becomes effective. The
 4 resulting order concerning the stay shall be served on the parties and
 5 any person who has a pending petition for intervention in the
 6 proceeding. It must include a statement of the facts and law on which
 7 it is based.

8 SECTION 7. IC 4-22-2.3-6, AS AMENDED BY P.L.93-2024,
 9 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2026]: Sec. 6. The following apply to the department of
 11 financial institutions:

12 (1) The department of financial institutions shall adopt rules
 13 under the interim rule procedures in IC 4-22-2-37.2 announcing:

14 (A) sixty (60) days before January 1 of each odd-numbered
 15 year in which dollar amounts under ~~IC 24-4.5~~ ~~IC 37-2~~ (Uniform Consumer Credit Code) are to
 16 change, the changes in dollar amounts required by
 17 ~~IC 24-4.5-1-106(2)~~; ~~IC 37-2-1-5(b)~~;

18 (B) promptly after the changes occur, changes in the Index
 19 required by ~~IC 24-4.5-1-106(3)~~; ~~IC 37-2-1-5(c)~~,
 20 including, when applicable, the numerical equivalent of the
 21 Reference Base Index under a revised Reference Base Index
 22 and the designation or title of any index superseding the
 23 Index;

24 (C) the adjustments required under ~~IC 24-9-2-8~~ ~~IC 37-5-2-8~~ concerning high cost home loans; and

25 (D) the adjustments required under IC 34-55-10-2
 26 (bankruptcy exemptions; limitations) or IC 34-55-10-2.5.

27 A rule described in this subdivision expires not later than
 28 January of the next odd-numbered year after the department of
 29 financial institutions is required to issue the rule.

30 (2) The department of financial institutions may adopt a rule
 31 under the interim rule procedures in IC 4-22-2-37.2 for a rule
 32 permitted under ~~IC 24-4.4-1-101~~ IC 37-1-1-1 (licensing system
 33 for creditors and mortgage loan originators) or ~~IC 24-4.5~~ ~~IC 37-2~~ (Uniform Consumer Credit Code) if the
 34 department of financial institutions declares an emergency. A
 35 rule described in this subdivision expires not later than two (2)
 36 years after the rule is effective.

37 (3) The department of financial institutions may adopt a rule
 38 described in IC 34-55-10-2 (bankruptcy exemptions; limitations)
 39 or IC 34-55-10-2.5 in conformity with the procedures in
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1 IC 4-22-2-23 through IC 4-22-2-36 or the interim rule
 2 procedures in IC 4-22-2-37.2. A rule described in this
 3 subdivision adopted under IC 4-22-2-37.2 expires not later than
 4 two (2) years after the rule is accepted for filing by the publisher
 5 of the Indiana Register.

6 A rule described in this section may be continued in another interim
 7 rule only if the governor determines under IC 4-22-2-37.2(c) that the
 8 policy options available to the agency are so limited that use of the
 9 additional notice, comment, and review procedures in IC 4-22-2-23
 10 through IC 4-22-2-36 would provide no benefit to persons regulated or
 11 otherwise affected by the rule.

12 SECTION 8. IC 5-27-3-3 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) A governmental
 14 body may:

15 (1) if the governmental body obtains the consent of each
 16 governmental body that is directly affected by the transaction,
 17 recognize the net amount remitted by the provider company as
 18 payment in full of an amount due the governmental entity for a
 19 service, a tax, a license, a permit, a fee, information, or any other
 20 amount due the governmental body that was paid by an
 21 electronic payment; or

22 (2) collect a sum for the vendor transaction charge, discount fee,
 23 or any other charge from the person who makes an electronic
 24 payment.

25 A fee under subdivision (2) may be collected as an enhanced service
 26 fee by a governmental body. The fee is a permitted additional charge
 27 under ~~IC 24-4.5-3-202.~~ [\[\] IC 37-2-4-5.](#)

28 (b) A governmental body may pay a service charge or fee in
 29 connection with its agreement with the provider company.

30 SECTION 9. IC 6-1.1-23-10 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 10. (a) If a judgment
 32 entered under section 9 of this chapter is not paid, the county treasurer
 33 may notify the delinquent taxpayer by certified mail that a judgment
 34 has been entered against ~~him~~ **the taxpayer** and that the treasurer is
 35 going to file a praecipe for execution. If the judgment is not paid within
 36 ten (10) days after the date the notice is given, the county treasurer
 37 shall file the praecipe for execution. If this notice is not given, an
 38 execution upon the judgment is invalid.

39 (b) If a judgment has been entered against a taxpayer under section
 40 9 of this chapter, the county treasurer may obtain a court order
 41 restraining the taxpayer from transacting business in the county.
 42 However, the restraining order may be dissolved if the court believes

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1 that dissolution of the restraining order will make collection of the
2 judgment more likely.

3 (c) If a judgment against a taxpayer under section 9 of this chapter
4 has not been satisfied within sixty (60) days after the judgment is
5 entered, the county treasurer may do the following without judicial
6 proceedings:

7 (1) Levy upon property of the taxpayer that is held by a financial
8 institution. The county treasurer shall make a levy in the same
9 manner as the department of state revenue under IC 6-8.1-8-8. A
10 financial institution that receives a claim under this subdivision
11 shall transfer to the county treasurer property of the taxpayer that
12 is held by the financial institution. However, if the value of the
13 taxpayer's property held by the financial institution is greater
14 than the amount of the judgment, the financial institution shall
15 transfer property of the taxpayer in an amount equal to the
16 amount of the judgment.

17 (2) Garnish the accrued earnings and wages of the taxpayer by
18 giving notice to the taxpayer's employer. An employer who
19 receives a notice under this subdivision shall garnish the accrued
20 earnings and wages of the taxpayer in an amount equal to the full
21 amount subject to garnishment under ~~IC 24-4.5-5-105~~.
22 **IC 37-2-6-4**. The employer:

23 (A) shall remit the amount garnished under this subdivision
24 to the county treasurer; and

25 (B) is entitled to a fee equal to the amount of the fee that
26 may be collected under ~~IC 24-4.5-5-105(5)~~.
27 **IC 37-2-6-4** in a garnishment action. However, the
28 taxpayer shall pay the entire fee collected under this clause.

29 (3) Withhold the amount of the judgment in full or in part from
30 any payment that:

31 (A) is due to the taxpayer from the county; and

32 (B) requires the signature of the county treasurer.

33 (d) The treasurer of a county may use any combination of remedies
34 provided under this section to collect the following:

35 (1) Delinquent taxes.

36 (2) Expenses incurred under IC 6-1.1-23-7(a)(1) through
37 IC 6-1.1-23-7(a)(6).

38 (e) A county treasurer that incurs attorney's fee expenses for legal
39 services not related to formal judicial proceedings shall petition a
40 circuit or superior court in the county for approval to pay the expenses.
41 The court may conduct a hearing on the petition and may authorize the
42 auditor of the county to issue a warrant for the amount of the

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1 reasonable expenses. The county treasurer shall pay the warrant
2 without an appropriation for the disbursement.

3 SECTION 10. IC 6-6-5.1-21, AS AMENDED BY P.L.9-2024,
4 SECTION 203, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2026]: Sec. 21. (a) The bureau, in the
6 administration and collection of the tax imposed by this chapter, may
7 use the services and facilities of:

- 8 (1) license branches operated under IC 9-14.1;
 - 9 (2) full service providers (as defined in IC 9-14.1-1-2); and
 - 10 (3) partial services providers (as defined in IC 9-14.1-1-3);
- 11 in the bureau's administration of the state motor vehicle registration
12 laws in the manner and to the extent the bureau considers necessary
13 and proper to implement and effectuate the administration and
14 collection of the excise tax imposed by this chapter.

15 (b) The bureau may impose a service charge of one dollar and
16 seventy cents (\$1.70) for each excise tax collection made under this
17 chapter. The service charge shall be deposited in the bureau of motor
18 vehicles commission fund.

19 (c) The bureau shall report the excise taxes collected on at least a
20 weekly basis to the county auditor of the county to which the
21 collections are due.

22 (d) If the excise tax imposed by this chapter is collected by the
23 department of state revenue, the money collected shall be deposited in
24 the state general fund to the credit of the appropriate county and
25 reported to the bureau on the first working day following the week of
26 collection. Except as provided in subsection (e), money collected by the
27 department that represents interest or a penalty shall be retained by the
28 department and used to pay the department's costs of enforcing this
29 chapter.

30 (e) This subsection applies only to interest or a penalty collected
31 by the department of state revenue from a person that:

- 32 (1) fails to properly register a recreational vehicle as required by
33 IC 9-18 (before its expiration) or IC 9-18.1 and pay the tax due
34 under this chapter; and
- 35 (2) during any time after the date by which the recreational
36 vehicle was required to be registered under IC 9-18 (before its
37 expiration) or IC 9-18.1 displays on the recreational vehicle a
38 license plate issued by another state.

39 The total amount collected by the department of state revenue that
40 represents interest or a penalty, minus a reasonable amount determined
41 by the department to represent its administrative expenses, shall be
42 deposited in the state general fund to the credit of the county in which

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1 the person resides. The amount shall be reported to the bureau on the
2 first working day following the week of collection.

3 (f) The bureau may contract with a bank card or credit card vendor
4 for acceptance of bank cards or credit cards. However, if a bank card
5 or credit card vendor charges a vendor transaction charge or discount
6 fee, whether billed to the bureau or charged directly to the bureau's
7 account, the bureau shall collect from a person using the card an
8 official fee that may not exceed the highest transaction charge or
9 discount fee charged to the bureau by bank card or credit card vendors
10 during the most recent collection period. The fee may be collected
11 regardless of retail merchant agreements between the bank card and
12 credit card vendors that may prohibit such a fee. The fee is a permitted
13 additional charge under ~~IC 24-4.5-3-202.~~ [IC 37-2-4-5.](#)

14 (g) On or before April 1 of each year, the bureau shall provide to
15 the state comptroller the amount of taxes collected under this chapter
16 for each county for the preceding year.

17 (h) On or before May 10 and November 10 of each year, the state
18 comptroller shall distribute to each county one-half (1/2) of:

19 (1) the amount of delinquent taxes; and

20 (2) any interest or penalty described in subsection (e);

21 that have been credited to the county under subsection (c). There is
22 appropriated from the state general fund the amount necessary to make
23 the distributions required by this subsection. The county auditor shall
24 apportion and distribute the delinquent tax distributions to the taxing
25 units in the county at the same time and in the same manner as excise
26 taxes are apportioned and distributed under section 22 of this chapter.

27 (i) The insurance commissioner shall prescribe the form of the
28 bonds or crime insurance policies required by this section.

29 SECTION 11. IC 6-8.1-8-1 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) A person may
31 make a tax payment:

32 (1) in cash;

33 (2) by bank draft;

34 (3) by check;

35 (4) by cashier's check;

36 (5) by money order;

37 (6) by credit card, debit card, charge card, or similar method; or

38 (7) if approved by the department, by an electronic fund transfer

39 (as defined in IC 4-8.1-2-7).

40 However, if a tax liability payment is made by bank draft, check,
41 cashier's check, or money order, the liability is not finally discharged
42 and the person has not paid the tax until the draft, check, or money

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1 order has been honored by the institution on which it is drawn. If the
 2 payment is made by credit card, debit card, charge card, or similar
 3 method, the liability is not finally discharged and the person has not
 4 paid the tax until the department receives payment or credit from the
 5 institution responsible for making the payment or credit. The
 6 department may contract with a bank or credit card vendor for
 7 acceptance of bank or credit cards. However, if there is a vendor
 8 transaction charge or discount fee, whether billed to the department or
 9 charged directly to the department's account, the department or credit
 10 card vendor may collect from the person using the bank or credit card
 11 a fee that may not exceed the highest transaction charge or discount fee
 12 charged to the department by the bank or credit card vendor during the
 13 most recent collection period. This fee may be collected regardless of
 14 any agreement between the bank and a credit card vendor or regardless
 15 of any internal policy of the credit card vendor that may prohibit this
 16 type of fee. The fee is a permitted additional charge under
 17 ~~IC 24-4.5-3-202.~~ **IC 37-2-4-5.**

18 (b) The department shall issue a receipt for a tax payment that is
 19 made with currency.

20 SECTION 12. IC 6-8.1-8-8, AS AMENDED BY P.L.99-2011,
 21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2026]: Sec. 8. After a tax warrant becomes a judgment under
 23 section 2 of this chapter, a tax warrant is returned uncollected to the
 24 department under section 3 of this chapter, or the taxpayer does not pay
 25 the amount demanded under section 2(b) of this chapter and the
 26 taxpayer has taken an action under section 2(n) of this chapter to
 27 foreclose the lien, the department may take any of the following actions
 28 without judicial proceedings.

29 (1) The department may levy upon the property of the taxpayer
 30 that is held by a financial institution by sending a claim to the
 31 financial institution. Upon receipt of a claim under this
 32 subdivision, the financial institution shall surrender to the
 33 department the taxpayer's property. If the taxpayer's property
 34 exceeds the amount owed to the state by the taxpayer, the
 35 financial institution shall surrender the taxpayer's property in an
 36 amount equal to the amount owed. After receiving the
 37 department's notice of levy, the financial institution is required
 38 to place a sixty (60) day hold on or restriction on the withdrawal
 39 of funds the taxpayer has on deposit or subsequently deposits, in
 40 an amount not to exceed the amount owed.

41 (2) The department may garnish the accrued earnings and wages
 42 of a taxpayer by sending a notice to the taxpayer's employer.

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1 Upon receipt of a notice under this subdivision, an employer
 2 shall garnish the accrued earnings and wages of the taxpayer in
 3 an amount equal to the full amount that is subject to garnishment
 4 under ~~IC 24-4.5-5.~~ **IC 37-2-6**. The amount garnished shall
 5 be remitted to the department. The employer is entitled to a fee
 6 in an amount equal to the fee allowed under
 7 ~~IC 24-4.5-5-105(5).~~ **IC 37-2-6-4(e)**. However, the fee shall
 8 be borne entirely by the taxpayer.

- 9 (3) The department may levy upon and sell property and may:
 10 (A) take immediate possession of the property and store it
 11 in a secure place; or
 12 (B) leave the property in the custody of the taxpayer;
 13 until the day of the sale. The department shall provide notice of
 14 the sale in one (1) newspaper, as provided in IC 5-3-1-2. If the
 15 property is left in the custody of the taxpayer, the department
 16 may require the taxpayer to provide a joint and several delivery
 17 bond, in an amount and with a surety acceptable to the
 18 department. At any time before the sale, any owner or part owner
 19 of the property may redeem the property from the judgment by
 20 paying the department the amount of the judgment. The proceeds
 21 of the sale shall be applied first to the collection expenses and
 22 second to the payment of the delinquent taxes and penalties. Any
 23 balance remaining shall be paid to the taxpayer.

24 SECTION 13. IC 7.1-3-1-13.5, AS ADDED BY P.L.153-2015,
 25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2026]: Sec. 13.5. (a) As used in this section, "credit card"
 27 means a:

- 28 (1) credit card;
 29 (2) debit card;
 30 (3) charge card; or
 31 (4) stored value card.
 32 (b) The commission shall accept a payment to the commission for
 33 any purpose by any of the following financial instruments:
 34 (1) Cash.
 35 (2) Certified check.
 36 (3) Cashier's check.
 37 (4) Check drawn on the bank deposit of a business.
 38 (5) Valid postal money order of the United States.
 39 (6) Bank draft.
 40 (7) Money order.
 41 (8) Bank card or credit card.
 42 (9) Electronic funds transfer.

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- 1 (10) Any other financial instrument authorized by the
- 2 commission.
- 3 (c) If there is a charge to the commission for the use of a financial
- 4 instrument, the commission may collect a sum equal to the amount of
- 5 the charge from the person who uses the financial instrument.
- 6 (d) A procedure authorized for a particular type of payment must
- 7 be uniformly applied to all payments of the same type.
- 8 (e) The commission may contract with a bank card or credit card
- 9 vendor for acceptance of bank cards or credit cards. However, if there
- 10 is a vendor transaction charge or discount fee, whether billed to the
- 11 commission or charged directly to the commission's account, the
- 12 commission may collect from the person using the card:
- 13 (1) an official fee that may not exceed the transaction charge or
- 14 discount fee charged to the commission by bank or credit card
- 15 vendors; or
- 16 (2) a reasonable convenience fee:
 - 17 (A) that may not exceed three dollars (\$3); and
 - 18 (B) that must be uniform regardless of the bank card or
 - 19 credit card used.
- 20 The fees described in subdivisions (1) and (2) may be collected
- 21 regardless of retail merchant agreements between the bank and credit
- 22 card vendors that may prohibit such fees. These fees are permitted
- 23 additional charges under ~~IC 24-4-5-3-202~~ **IC 37-2-4-5**.
- 24 (f) The commission may pay any applicable bank card or credit
- 25 card service charge associated with the use of a bank card or credit card
- 26 under this section.
- 27 SECTION 14. IC 22-2-6-2, AS AMENDED BY P.L.147-2019,
- 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2026]: Sec. 2. (a) Any assignment of the wages of an
- 30 employee is valid only if all of the following conditions are satisfied:
- 31 (1) The assignment is:
 - 32 (A) in writing;
 - 33 (B) signed by the employee personally;
 - 34 (C) by its terms revocable at any time by the employee upon
 - 35 written notice to the employer; and
 - 36 (D) agreed to in writing by the employer.
- 37 (2) An executed copy of the assignment is delivered to the
- 38 employer within ten (10) days after its execution.
- 39 (3) The assignment is made for a purpose described in
- 40 subsection (b).
- 41 (b) A wage assignment under this section may be made for the
- 42 purpose of paying any of the following:

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- 1 (1) Premium on a policy of insurance obtained for the employee
- 2 by the employer.
- 3 (2) Pledge or contribution of the employee to a charitable or
- 4 nonprofit organization.
- 5 (3) Purchase price of bonds or securities, issued or guaranteed by
- 6 the United States.
- 7 (4) Purchase price of shares of stock, or fractional interests in
- 8 shares of stock, of the employing company, or of a company
- 9 owning the majority of the issued and outstanding stock of the
- 10 employing company, whether purchased from such company, in
- 11 the open market or otherwise. However, if such shares are to be
- 12 purchased on installments pursuant to a written purchase
- 13 agreement, the employee has the right under the purchase
- 14 agreement at any time before completing purchase of such shares
- 15 to cancel said agreement and to have repaid promptly the amount
- 16 of all installment payments which theretofore have been made.
- 17 (5) Dues to become owing by the employee to a labor
- 18 organization of which the employee is a member.
- 19 (6) Purchase price of merchandise, goods, or food offered by the
- 20 employer and sold to the employee, for the employee's benefit,
- 21 use, or consumption, at the written request of the employee.
- 22 (7) Amount of a loan made to the employee by the employer and
- 23 evidenced by a written instrument executed by the employee
- 24 subject to the amount limits set forth in section 4(c) of this
- 25 chapter.
- 26 (8) Contributions, assessments, or dues of the employee to a
- 27 hospital service or a surgical or medical expense plan or to an
- 28 employees' association, trust, or plan existing for the purpose of
- 29 paying pensions or other benefits to said employee or to others
- 30 designated by the employee.
- 31 (9) Payment to any credit union, nonprofit organizations, or
- 32 associations of employees of such employer organized under any
- 33 law of this state or of the United States.
- 34 (10) Payment to any person or organization regulated under the
- 35 Uniform Consumer Credit Code (~~IC 24-4.5~~) **(IC 37-2) or**
- 36 **IC 37-3 (small loans)** for deposit or credit to the employee's
- 37 account by electronic transfer or as otherwise designated by the
- 38 employee.
- 39 (11) Premiums on policies of insurance and annuities purchased
- 40 by the employee on the employee's life.
- 41 (12) The purchase price of shares or fractional interest in shares
- 42 in one (1) or more mutual funds.

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- 1 (13) A judgment owed by the employee if the payment:
- 2 (A) is made in accordance with an agreement between the
- 3 employee and the creditor; and
- 4 (B) is not a garnishment under IC 34-25-3.
- 5 (14) The purchase, rental, or use of uniforms, shirts, pants, or
- 6 other ~~job-related~~ **job related** clothing at an amount not to exceed
- 7 the direct cost paid by an employer to an external vendor for
- 8 those items.
- 9 (15) The purchase of equipment or tools necessary to fulfill the
- 10 duties of employment at an amount not to exceed the direct cost
- 11 paid by an employer to an external vendor for those items.
- 12 (16) Reimbursement for education or employee skills training.
- 13 However, a wage assignment may not be made if the education
- 14 or employee skills training benefits were provided, in whole or
- 15 in part, through an economic development incentive from any
- 16 federal, state, or local program.
- 17 (17) An advance for:
- 18 (A) payroll; or
- 19 (B) vacation;
- 20 pay.
- 21 (18) The employee's drug education and addiction treatment
- 22 services under IC 12-23-23.
- 23 (c) The interest rate charged on amounts loaned or advanced to an
- 24 employee and repaid under subsection (b) may not exceed the bank
- 25 prime loan interest rate as reported by the Board of Governors of the
- 26 Federal Reserve System or any successor rate, plus four percent (4%).
- 27 (d) The total amount of wages subject to assignment under
- 28 subsection (b)(14) and (b)(15) may not exceed the lesser of:
- 29 (1) two thousand five hundred dollars (\$2,500) per year; or
- 30 (2) five percent (5%) of the employee's weekly disposable
- 31 earnings (as defined in ~~IC 24-4.5-5-105(1)(a)~~ **IC 37-2-6-4(a)(1)**);
- 32 **IC 37-2-6-4(a)(1)**.
- 33 (e) Except as provided under 29 CFR Parts 1910, 1915, 1917,
- 34 1918, and 1926, an employee shall not be charged or subject to a wage
- 35 assignment under subsection (b)(14) or (b)(15) for protective
- 36 equipment including personal protective equipment identified under 29
- 37 CFR Parts 1910, 1915, 1917, 1918, and 1926.
- 38 SECTION 15. IC 22-4-13.3-4, AS AMENDED BY P.L.66-2018,
- 39 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 40 JULY 1, 2026]: Sec. 4. (a) An employer that receives a notice to
- 41 withhold income under section 3 of this chapter shall do the following:
- 42 (1) Verify the individual's employment to the department.

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- 1 (2) Withhold from the income due to the individual each pay
- 2 period an amount:
- 3 (A) determined in accordance with; and
- 4 (B) subject to the limitations of and priority established by;
- 5 ~~IC 24-4.5-5-105~~ \leftrightarrow IC 37-2-6-4 in the same manner as a
- 6 garnishment. An income withholding under this chapter is not an
- 7 assignment of wages under IC 22-2-6.
- 8 (3) Begin withholding the amount determined under subdivision
- 9 (2) from the individual's income beginning with the first pay
- 10 period that occurs not later than fourteen (14) days after the date
- 11 the employer receives the notice sent under section 3 of this
- 12 chapter.
- 13 (4) Remit the amount withheld under subdivision (2) to the
- 14 department by check or electronic payment (as defined by
- 15 IC 5-27-2-3) not later than seven (7) days after the date of each
- 16 regularly scheduled pay day.
- 17 (5) Continue withholding under this section until:
- 18 (A) the department notifies the employer to discontinue the
- 19 withholding; or
- 20 (B) the full amount required to be paid to the department
- 21 has been paid, as indicated by a written statement to the
- 22 employer from the department.
- 23 (6) Notify the department, if the individual subject to
- 24 withholding terminates employment, including the individual's
- 25 last known address and the name of any new employer, if known.
- 26 (b) An employer that is required to withhold income under
- 27 subsection (a)(2) may collect a fee equal to twelve dollars (\$12). If the
- 28 employer chooses to impose a fee, the fee shall be allocated as follows:
- 29 (1) Fifty percent (50%) of the fee shall be paid by the individual
- 30 subject to withholding, and that amount is deductible by the
- 31 employer from the individual's disposable earnings (as defined
- 32 in ~~IC 24-4.5-5-105(1)(a)~~ \leftrightarrow IC 37-2-6-4(a)(1)).
- 33 (2) Fifty percent (50%) of the fee shall be paid by the
- 34 department.
- 35 The fee may be collected only once by an employer for each notice
- 36 provided by the department under section 3 of this chapter. The
- 37 employer may collect the entire fee from one (1) or more of the initial
- 38 withholdings from the individual's disposable earnings, or alternatively,
- 39 the employer may collect the fee ratably over the number of pay
- 40 periods for which the withholdings from the individual's disposable
- 41 earnings are required. If an employer chooses to collect a fee under this
- 42 subsection, the employer shall notify the department in the manner and

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1 form prescribed by the department, and the amount to be withheld must
2 be reduced, if necessary, to avoid exceeding the maximum amount
3 permitted to be deducted under ~~IC 24-4.5-5-105(3)~~. ~~↔~~↔
4 **IC 37-2-6-4(c)**. A fee collected under this subsection is not an
5 assignment of wages under IC 22-2-6.

6 SECTION 16. IC 22-4-13.3-7, AS AMENDED BY P.L.93-2024,
7 SECTION 156, IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2026]: Sec. 7. (a) An employer that complies
9 with a notice described in section 3 of this chapter that is regular on its
10 face is not liable in any civil action for any conduct taken in
11 compliance with the notice.

12 (b) An employer that complies with a notice described in section
13 3 of this chapter is discharged from liability to an employee for the part
14 of the employee's income that was withheld in compliance with the
15 notice.

16 (c) If a court issues an order to stay a withholding of income, the
17 department is not liable in any civil action to an individual who is the
18 subject of the income withholding for amounts withheld from the
19 individual's income before the stay becomes effective.

20 (d) Administrative income withholdings issued under this chapter
21 are subject to the limitations set forth in ~~IC 24-4.5-5-105~~. ~~↔~~↔
22 **IC 37-2-6-4**. ~~↔~~↔ A withholding under this chapter is not an
23 assignment of wages under IC 22-2-6.

24 (e) The department may adopt rules under IC 4-22-2 to carry out
25 the department's responsibilities under this chapter.

26 SECTION 17. IC 22-9-1-3, AS AMENDED BY P.L.213-2016,
27 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2026]: Sec. 3. As used in this chapter:

29 (a) "Person" means one (1) or more individuals, partnerships,
30 associations, organizations, limited liability companies, corporations,
31 labor organizations, cooperatives, legal representatives, trustees,
32 trustees in bankruptcy, receivers, and other organized groups of
33 persons.

34 (b) "Commission" means the civil rights commission created under
35 section 4 of this chapter.

36 (c) "Director" means the director of the civil rights commission.

37 (d) "Deputy director" means the deputy director of the civil rights
38 commission.

39 (e) "Commission attorney" means the deputy attorney general,
40 such assistants of the attorney general as may be assigned to the
41 commission, or such other attorney as may be engaged by the
42 commission.

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- 1 (f) "Consent agreement" means a formal agreement entered into
- 2 in lieu of adjudication.
- 3 (g) "Affirmative action" means those acts that the commission
- 4 determines necessary to assure compliance with the Indiana civil rights
- 5 law.
- 6 (h) "Employer" means the state or any political or civil subdivision
- 7 thereof and any person employing six (6) or more persons within the
- 8 state, except that the term "employer" does not include:
- 9 (1) any nonprofit corporation or association organized
- 10 exclusively for fraternal or religious purposes;
- 11 (2) any school, educational, or charitable religious institution
- 12 owned or conducted by or affiliated with a church or religious
- 13 institution; or
- 14 (3) any exclusively social club, corporation, or association that
- 15 is not organized for profit.
- 16 (i) "Employee" means any person employed by another for wages
- 17 or salary. However, the term does not include any individual employed:
- 18 (1) by the individual's parents, spouse, or child; or
- 19 (2) in the domestic service of any person.
- 20 (j) "Labor organization" means any organization that exists for the
- 21 purpose in whole or in part of collective bargaining or of dealing with
- 22 employers concerning grievances, terms, or conditions of employment
- 23 or for other mutual aid or protection in relation to employment.
- 24 (k) "Employment agency" means any person undertaking with or
- 25 without compensation to procure, recruit, refer, or place employees.
- 26 (l) "Discriminatory practice" means:
- 27 (1) the exclusion of a person from equal opportunities because
- 28 of race, religion, color, sex, disability, national origin, ancestry,
- 29 or status as a veteran;
- 30 (2) a system that excludes persons from equal opportunities
- 31 because of race, religion, color, sex, disability, national origin,
- 32 ancestry, or status as a veteran;
- 33 (3) the promotion of racial segregation or separation in any
- 34 manner, including but not limited to the inducing of or the
- 35 attempting to induce for profit any person to sell or rent any
- 36 dwelling by representations regarding the entry or prospective
- 37 entry in the neighborhood of a person or persons of a particular
- 38 race, religion, color, sex, disability, national origin, or ancestry;
- 39 (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and
- 40 is committed by a covered entity (as defined in IC 22-9-5-4);
- 41 (5) the performance of an abortion solely because of the race,
- 42 color, sex, disability, national origin, or ancestry of the fetus; or

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1 (6) a violation of any of the following statutes protecting the
2 right of conscience regarding abortion:

- 3 (A) IC 16-34-1-4.
- 4 (B) IC 16-34-1-5.
- 5 (C) IC 16-34-1-6.

6 Every discriminatory practice relating to the acquisition or sale of real
7 estate, education, public accommodations, employment, or the
8 extending of credit (as defined in ~~IC 24-4.5-1-301.5~~) \leftrightarrow [
9 **IC 37-2-2-14**] shall be considered unlawful unless it is specifically
10 exempted by this chapter.

11 (m) "Public accommodation" means any establishment that caters
12 or offers its services or facilities or goods to the general public.

13 (n) "Complainant" means:

- 14 (1) any individual charging on the individual's own behalf to
- 15 have been personally aggrieved by a discriminatory practice; or
- 16 (2) the director or deputy director of the commission charging
- 17 that a discriminatory practice was committed against a person
- 18 (other than the director or deputy director) or a class of people,
- 19 in order to vindicate the public policy of the state (as defined in
- 20 section 2 of this chapter).

21 (o) "Complaint" means any written grievance that is:

- 22 (1) sufficiently complete and filed by a complainant with the
- 23 commission; or
- 24 (2) filed by a complainant as a civil action in the circuit or
- 25 superior court having jurisdiction in the county in which the
- 26 alleged discriminatory practice occurred.

27 The original of any complaint filed under subdivision (1) shall be
28 signed and verified by the complainant.

29 (p) "Sufficiently complete" refers to a complaint that includes:

- 30 (1) the full name and address of the complainant;
- 31 (2) the name and address of the respondent against whom the
- 32 complaint is made;
- 33 (3) the alleged discriminatory practice and a statement of
- 34 particulars thereof;
- 35 (4) the date or dates and places of the alleged discriminatory
- 36 practice and if the alleged discriminatory practice is of a
- 37 continuing nature the dates between which continuing acts of
- 38 discrimination are alleged to have occurred; and
- 39 (5) a statement as to any other action, civil or criminal, instituted
- 40 in any other form based upon the same grievance alleged in the
- 41 complaint, together with a statement as to the status or
- 42 disposition of the other action.

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1 No complaint shall be valid unless filed within one hundred eighty
2 (180) days from the date of the occurrence of the alleged
3 discriminatory practice.

4 (q) "Sex" as it applies to segregation or separation in this chapter
5 applies to all types of employment, education, public accommodations,
6 and housing. However:

7 (1) it shall not be a discriminatory practice to maintain separate
8 restrooms;

9 (2) it shall not be an unlawful employment practice for an
10 employer to hire and employ employees, for an employment
11 agency to classify or refer for employment any individual, for a
12 labor organization to classify its membership or to classify or
13 refer for employment any individual, or for an employer, labor
14 organization, or joint labor management committee controlling
15 apprenticeship or other training or retraining programs to admit
16 or employ any other individual in any program on the basis of
17 sex in those certain instances where sex is a bona fide
18 occupational qualification reasonably necessary to the normal
19 operation of that particular business or enterprise; and

20 (3) it shall not be a discriminatory practice for a private or
21 religious educational institution to continue to maintain and
22 enforce a policy of admitting students of one (1) sex only.

23 (r) "Disabled" or "disability" means the physical or mental
24 condition of a person that constitutes a substantial disability. In
25 reference to employment under this chapter, "disabled or disability"
26 also means the physical or mental condition of a person that constitutes
27 a substantial disability unrelated to the person's ability to engage in a
28 particular occupation.

29 (s) "Veteran" means:

30 (1) a veteran of the armed forces of the United States;

31 (2) a member of the Indiana National Guard; or

32 (3) a member of a reserve component.

33 SECTION 18. IC 23-0.5-9-58, AS ADDED BY P.L.118-2017,
34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2026]: Sec. 58. The secretary of state may accept payment of
36 the correct filing fee by credit card, debit card, charge card, or similar
37 method. However, if the filing fee is paid by credit card, debit card,
38 charge card, or similar method, the liability is not finally discharged
39 until the secretary of state receives payment or credit from the
40 institution responsible for making the payment or credit. The secretary
41 of state may contract with a bank or credit card vendor for acceptance
42 of bank or credit cards. However, if there is a vendor transaction charge

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1 or discount fee, whether billed to the secretary of state or charged
2 directly to the secretary of state's account, the secretary of state or the
3 credit card vendor may collect from the person using the bank or credit
4 card a fee that may not exceed the highest transaction charge or
5 discount fee charged to the secretary of state by the bank or credit card
6 vendor during the most recent collection period. This fee may be
7 collected regardless of any agreement between the bank and a credit
8 card vendor or regardless of any internal policy of the credit card
9 vendor that may prohibit this type of fee. The fee is a permitted
10 additional charge under ~~IC 24-4.5-3-202.~~ **IC 37-2-4-5.**

11 SECTION 19. IC 23-2.5-1-14, AS ADDED BY P.L.175-2019,
12 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2026]: Sec. 14. (a) "Loan broker" means a person who, in
14 return for consideration from any source:

- 15 (1) procures;
- 16 (2) attempts to procure; or
- 17 (3) assists in procuring;

18 a residential mortgage loan from a third party, regardless of whether the
19 person seeking the loan obtains the loan.

20 (b) The term "loan broker" does not include:

- 21 (1) a supervised financial organization (as defined in
22 IC 26-1-4-102.5), including a bank, savings bank, trust company,
23 savings association, or credit union;
- 24 (2) another financial institution that is:
 - 25 (A) regulated by an agency of the United States or a state;
 - 26 and
 - 27 (B) regularly actively engaged in the business of:
 - 28 (i) making consumer loans that are not secured by real
29 estate; or
 - 30 (ii) taking assignment of consumer sales contracts that
31 are not secured by real estate;
- 32 (3) an insurance company;
- 33 (4) a person arranging financing for the sale of the person's
34 product; or
- 35 (5) a creditor that is licensed under ~~IC 24-4.4-2-402.~~

36 **IC 37-1-3-5.**

37 SECTION 20. IC 23-2.5-8-3, AS ADDED BY P.L.175-2019,
38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2026]: Sec. 3. (a) If a transaction for which a loan broker has
40 charged a fee is rescinded by a person under the federal Truth in
41 Lending Act (15 U.S.C. 1601-1667e) within twenty (20) calendar days
42 after the date on which a notice of the rescission is delivered to the

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1 creditor, the loan broker shall return to the person any consideration
2 received by the loan broker other than bona fide third party fees.

3 (b) For purposes of calculating the period during which a person
4 may avoid a contract under IC 24-5-10-8 or ~~IC 24-4.5-2-502, <->~~
5 **IC 37-2-3-28**, a contract with a loan broker is considered to be a sale
6 of services that occurs on the date on which the person signs the
7 written contract required by section 1 of this chapter.

8 SECTION 21. IC 23-2.5-11-16, AS ADDED BY P.L.175-2019,
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2026]: Sec. 16. In the securities division's investigative,
11 examination, and regulatory activities related to licensees under this
12 article, the securities division may cooperate with the Indiana
13 department of financial institutions in the regulation of a licensee that
14 conducts:

- 15 (1) business under this article; and
- 16 (2) business that requires licensure under ~~IC 24-4.4, <->~~
17 **IC 37-1.**

18 SECTION 22. IC 24-4.4 IS REPEALED [EFFECTIVE JULY 1,
19 2026]. (First Lien Mortgage Lending).

20 SECTION 23. IC 24-4.5 IS REPEALED [EFFECTIVE JULY 1,
21 2026]. (Uniform Consumer Credit Code).

22 SECTION 24. IC 24-4.6-1-103, AS AMENDED BY P.L.86-2018,
23 SECTION 196, IS AMENDED TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2026]: Sec. 103. Interest at the rate of eight
25 percent (8%) per annum shall be allowed:

26 (a) From the date of settlement on money due on any instrument
27 in writing which does not specify a rate of interest and which is not
28 covered by ~~IC 24-4.5 IC 37-2~~ or this article;

29 (b) And from the date an itemized bill shall have been rendered
30 and payment demanded on an account stated, account closed or for
31 money had and received for the use of another and retained without the
32 other person's consent.

33 SECTION 25. IC 24-4.7-1-1, AS AMENDED BY P.L.242-2019,
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2026]: Sec. 1. This article does not apply to any of the
36 following:

- 37 (1) A telephone call made in response to an express request of
38 the person called.
- 39 (2) A telephone call made primarily in connection with an
40 existing debt or contract for which payment or performance has
41 not been completed at the time of the call.
- 42 (3) A telephone call made on behalf of a charitable organization

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1 that is exempt from federal income taxation under Section 501
 2 of the Internal Revenue Code, but only if all of the following
 3 apply:

4 (A) The telephone call is made by a volunteer or an
 5 employee of the charitable organization.

6 (B) The telephone solicitor who makes the telephone call
 7 immediately discloses all of the following information upon
 8 making contact with the consumer:

9 (i) The solicitor's true first and last name.

10 (ii) The name, address, and telephone number of the
 11 charitable organization.

12 (4) A telephone call made by an individual licensed under
 13 IC 25-34.1 if:

14 (A) the sale of goods or services is not completed; and

15 (B) the payment or authorization of payment is not required;
 16 until after a face to face sales presentation by the seller.

17 (5) A telephone call made by an individual licensed under
 18 IC 27-1-15.6 or IC 27-1-15.8 when the individual is soliciting an
 19 application for insurance or negotiating a policy of insurance on
 20 behalf of an insurer (as defined in IC 27-1-2-3).

21 (6) A telephone call soliciting the sale of a newspaper of general
 22 circulation, but only if the telephone call is made by a volunteer
 23 or an employee of the newspaper.

24 (7) Any telephone call made to a consumer by a communications
 25 service provider (as defined in IC 8-1-32.5-4) that:

26 (A) offers broadband Internet service; and

27 (B) has an established business relationship (as defined in
 28 47 CFR 64.1200) with the consumer.

29 (8) Any telephone call made to a consumer by:

30 (A) a financial institution organized or reorganized under
 31 the laws of any state or the United States; or

32 (B) a person licensed by the department of financial
 33 institutions under ~~IC 24-4-4, IC 24-4.5,~~ **IC 37-1,**
 34 **IC 37-2,** or 750 IAC 9;

35 that has an established business relationship (as defined in 47
 36 CFR 64.1200) with the consumer.

37 SECTION 26. IC 24-4.9-2-6, AS ADDED BY P.L.125-2006,
 38 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 6. "Financial institution" means a financial
 40 institution as defined in:

41 (1) IC 28-1-1-3, other than a consumer finance institution
 42 licensed to make supervised or regulated loans under ~~IC 24-4.5;~~

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1 **IC 37-2;** or
2 (2) 15 U.S.C. 6809(3).
3 SECTION 27. IC 24-5-0.5-3, AS AMENDED BY P.L.104-2024,
4 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2026]: Sec. 3. (a) A supplier may not commit an unfair,
6 abusive, or deceptive act, omission, or practice in connection with a
7 consumer transaction. Such an act, omission, or practice by a supplier
8 is a violation of this chapter whether it occurs before, during, or after
9 the transaction. An act, omission, or practice prohibited by this section
10 includes both implicit and explicit misrepresentations.
11 (b) Without limiting the scope of subsection (a), the following
12 acts, and the following representations as to the subject matter of a
13 consumer transaction, made orally, in writing, or by electronic
14 communication, by a supplier, are deceptive acts:
15 (1) That such subject of a consumer transaction has sponsorship,
16 approval, performance, characteristics, accessories, uses, or
17 benefits it does not have which the supplier knows or should
18 reasonably know it does not have.
19 (2) That such subject of a consumer transaction is of a particular
20 standard, quality, grade, style, or model, if it is not and if the
21 supplier knows or should reasonably know that it is not.
22 (3) That such subject of a consumer transaction is new or
23 unused, if it is not and if the supplier knows or should reasonably
24 know that it is not.
25 (4) That such subject of a consumer transaction will be supplied
26 to the public in greater quantity than the supplier intends or
27 reasonably expects.
28 (5) That replacement or repair constituting the subject of a
29 consumer transaction is needed, if it is not and if the supplier
30 knows or should reasonably know that it is not.
31 (6) That a specific price advantage exists as to such subject of a
32 consumer transaction, if it does not and if the supplier knows or
33 should reasonably know that it does not.
34 (7) That the supplier has a sponsorship, approval, or affiliation
35 in such consumer transaction the supplier does not have, and
36 which the supplier knows or should reasonably know that the
37 supplier does not have.
38 (8) That such consumer transaction involves or does not involve
39 a warranty, a disclaimer of warranties, or other rights, remedies,
40 or obligations, if the representation is false and if the supplier
41 knows or should reasonably know that the representation is false.
42 (9) That the consumer will receive a rebate, discount, or other

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- 1 benefit as an inducement for entering into a sale or lease in
- 2 return for giving the supplier the names of prospective
- 3 consumers or otherwise helping the supplier to enter into other
- 4 consumer transactions, if earning the benefit, rebate, or discount
- 5 is contingent upon the occurrence of an event subsequent to the
- 6 time the consumer agrees to the purchase or lease.
- 7 (10) That the supplier is able to deliver or complete the subject
- 8 of the consumer transaction within a stated period of time, when
- 9 the supplier knows or should reasonably know the supplier could
- 10 not. If no time period has been stated by the supplier, there is a
- 11 presumption that the supplier has represented that the supplier
- 12 will deliver or complete the subject of the consumer transaction
- 13 within a reasonable time, according to the course of dealing or
- 14 the usage of the trade.
- 15 (11) That the consumer will be able to purchase the subject of
- 16 the consumer transaction as advertised by the supplier, if the
- 17 supplier does not intend to sell it.
- 18 (12) That the replacement or repair constituting the subject of a
- 19 consumer transaction can be made by the supplier for the
- 20 estimate the supplier gives a customer for the replacement or
- 21 repair, if the specified work is completed and:
 - 22 (A) the cost exceeds the estimate by an amount equal to or
 - 23 greater than ten percent (10%) of the estimate;
 - 24 (B) the supplier did not obtain written permission from the
 - 25 customer to authorize the supplier to complete the work
 - 26 even if the cost would exceed the amounts specified in
 - 27 clause (A);
 - 28 (C) the total cost for services and parts for a single
 - 29 transaction is more than seven hundred fifty dollars (\$750);
 - 30 and
 - 31 (D) the supplier knew or reasonably should have known that
 - 32 the cost would exceed the estimate in the amounts specified
 - 33 in clause (A).
- 34 (13) That the replacement or repair constituting the subject of a
- 35 consumer transaction is needed, and that the supplier disposes of
- 36 the part repaired or replaced earlier than seventy-two (72) hours
- 37 after both:
 - 38 (A) the customer has been notified that the work has been
 - 39 completed; and
 - 40 (B) the part repaired or replaced has been made available
 - 41 for examination upon the request of the customer.
- 42 (14) Engaging in the replacement or repair of the subject of a

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1 consumer transaction if the consumer has not authorized the
 2 replacement or repair, and if the supplier knows or should
 3 reasonably know that it is not authorized.

4 (15) The act of misrepresenting the geographic location of the
 5 supplier by listing an alternate business name or an assumed
 6 business name (as described in IC 23-0.5-3-4) in a local
 7 telephone directory if:

8 (A) the name misrepresents the supplier's geographic
 9 location;

10 (B) the listing fails to identify the locality and state of the
 11 supplier's business;

12 (C) calls to the local telephone number are routinely
 13 forwarded or otherwise transferred to a supplier's business
 14 location that is outside the calling area covered by the local
 15 telephone directory; and

16 (D) the supplier's business location is located in a county
 17 that is not contiguous to a county in the calling area covered
 18 by the local telephone directory.

19 (16) The act of listing an alternate business name or assumed
 20 business name (as described in IC 23-0.5-3-4) in a directory
 21 assistance data base if:

22 (A) the name misrepresents the supplier's geographic
 23 location;

24 (B) calls to the local telephone number are routinely
 25 forwarded or otherwise transferred to a supplier's business
 26 location that is outside the local calling area; and

27 (C) the supplier's business location is located in a county
 28 that is not contiguous to a county in the local calling area.

29 (17) The violation by a supplier of IC 24-3-4 concerning
 30 cigarettes for import or export.

31 (18) The act of a supplier in knowingly selling or reselling a
 32 product to a consumer if the product has been recalled, whether
 33 by the order of a court or a regulatory body, or voluntarily by the
 34 manufacturer, distributor, or retailer, unless the product has been
 35 repaired or modified to correct the defect that was the subject of
 36 the recall.

37 (19) The violation by a supplier of 47 U.S.C. 227, including any
 38 rules or regulations issued under 47 U.S.C. 227.

39 (20) The violation by a supplier of the federal Fair Debt
 40 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
 41 rules or regulations issued under the federal Fair Debt Collection
 42 Practices Act (15 U.S.C. 1692 et seq.).

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

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- 1 (41) A violation of IC 24-5-27 (concerning intrastate inmate
2 calling services), as set forth in IC 24-5-27-27.
- 3 (42) A violation of IC 15-21 (concerning sales of dogs by retail
4 pet stores), as set forth in IC 15-21-7-4.
- 5 (43) A violation of IC 24-4-23 (concerning the security of
6 information collected and transmitted by an adult oriented
7 website operator), as set forth in IC 24-4-23-14.
- 8 (c) Any representations on or within a product or its packaging or
9 in advertising or promotional materials which would constitute a
10 deceptive act shall be the deceptive act both of the supplier who places
11 such representation thereon or therein, or who authored such materials,
12 and such other suppliers who shall state orally or in writing that such
13 representation is true if such other supplier shall know or have reason
14 to know that such representation was false.
- 15 (d) If a supplier shows by a preponderance of the evidence that an
16 act resulted from a bona fide error notwithstanding the maintenance of
17 procedures reasonably adopted to avoid the error, such act shall not be
18 deceptive within the meaning of this chapter.
- 19 (e) It shall be a defense to any action brought under this chapter
20 that the representation constituting an alleged deceptive act was one
21 made in good faith by the supplier without knowledge of its falsity and
22 in reliance upon the oral or written representations of the manufacturer,
23 the person from whom the supplier acquired the product, any testing
24 organization, or any other person provided that the source thereof is
25 disclosed to the consumer.
- 26 (f) For purposes of subsection (b)(12), a supplier that provides
27 estimates before performing repair or replacement work for a customer
28 shall give the customer a written estimate itemizing as closely as
29 possible the price for labor and parts necessary for the specific job
30 before commencing the work.
- 31 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
32 company or other provider of a telephone directory or directory
33 assistance service or its officer or agent is immune from liability for
34 publishing the listing of an alternate business name or assumed
35 business name of a supplier in its directory or directory assistance data
36 base unless the telephone company or other provider of a telephone
37 directory or directory assistance service is the same person as the
38 supplier who has committed the deceptive act.
- 39 (h) For purposes of subsection (b)(18), it is an affirmative defense
40 to any action brought under this chapter that the product has been
41 altered by a person other than the defendant to render the product
42 completely incapable of serving its original purpose.

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SECTION 28. IC 24-5-15-7, AS AMENDED BY P.L.209-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 7. (a) Except as provided in subsection (d), a contract between a consumer and a credit services organization concerning the purchase of the services of the credit services organization must be in writing, be dated and signed by both the consumer and the credit services organization, and include all of the following:

(1) A statement in at least 10 point boldface type in immediate proximity to the space reserved for the signature of the buyer that reads:

"You, the buyer, may cancel this contract at any time before midnight of the third business day after the date of the transaction. See the attached notice of cancellation form for an explanation of this right."

(2) The terms and conditions of payment, including the total amount of all payments to be made by the buyer to the credit services organization or to another person.

(3) A complete and detailed description of the services to be performed and the results to be achieved by the credit services organization for or on behalf of the buyer, including all guarantees and all promises of full or partial refunds and a list of the adverse information appearing on the consumer's credit report that the credit services organization expects to have modified and the estimated date by which each modification will occur.

(4) The principal business address of the credit services organization and the name and address of the credit services organization's agent in Indiana authorized to receive service of process.

(b) A contract shall be accompanied by two (2) copies of a form captioned "NOTICE OF CANCELLATION" attached to the contract and that contains the following statement in at least 10 point boldface type:

NOTICE OF CANCELLATION

You may cancel this contract, without any penalty or obligation, at any time before midnight of the third business day after the date the contract is signed.

If you cancel, any payment made by you under this contract will be returned within ten days following receipt by the seller of your cancellation notice, or any other written notice, to

(name of seller)

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1 (address of seller)
 2 (place of business)
 3 not later than midnight _____
 4 (date)
 5 "I hereby cancel this transaction". _____
 6 (date)
 7 _____
 8 (buyer's signature)

9 (c) A credit services organization shall give a copy of the
 10 completed contract and all other documents required by the credit
 11 services organization to the buyer at the time the contract and the
 12 documents are signed.

13 (d) If a contract is subject to this chapter and to ~~IC 24-5.5-~~
 14 ~~IC 24-5.5-4,~~ ~~<>~~ **IC 37-4, IC 37-4-3** applies to the contract.

15 SECTION 29. IC 24-5-23.5-3, AS ADDED BY P.L.52-2009,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2026]: Sec. 3. (a) As used in this chapter, "creditor" means a
 18 person:

- 19 (1) that regularly engages in Indiana in the extension of
- 20 mortgage loans that are subject to a credit service charge or loan
- 21 finance charge, as applicable, or are payable by written
- 22 agreement in more than four (4) installments (not including a
- 23 down payment); and
- 24 (2) to whom the obligation arising from a mortgage loan is
- 25 initially payable, either on the face of the note or contract, or by
- 26 agreement if there is not a note or contract.

- 27 (b) The term does not include a person described in:
- 28 (1) ~~IC 24-9-2-6(a)(2)~~ ~~<>~~ **IC 37-5-2-6(a)(2)** if the person
- 29 described in ~~IC 24-9-2-6(a)(2)~~ ~~<>~~ **IC 37-5-2-6-6(a)(2)** is not
- 30 the person extending the credit in the transaction; or
- 31 (2) ~~IC 24-9-2-6(b)~~ ~~<>~~ **IC 37-5-2-6(b)**.

32 SECTION 30. IC 24-5-23.5-4, AS AMENDED BY P.L.13-2013,
 33 SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2026]: Sec. 4. (a) As used in this chapter, "mortgage loan"
 35 means a loan in which a mortgage (or another equivalent consensual
 36 security interest) that constitutes a lien is created or retained against an
 37 interest in real property in Indiana.

- 38 (b) The term includes the following:
- 39 (1) A home loan subject to ~~IC 24-9-~~ ~~<>~~ **IC 37-5**.
- 40 (2) A loan described in ~~IC 24-9-1-1,~~ ~~<>~~ **IC 37-5-1-1**, to the
- 41 extent allowed under federal law.
- 42 (3) A first lien mortgage transaction (as defined in

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1 ~~IC 24-4.4-1-301~~ ~~↔~~ ~~↔~~ ~~IC 37-1-2~~) subject to ~~IC 24-4.4.~~ ~~↔~~ ~~↔~~ ~~IC 37-1.~~
2
3 (4) A consumer credit sale subject to ~~IC 24-4.5-2~~ ~~↔~~ ~~↔~~ ~~IC 37-2-3~~
4 in which a mortgage (or another equivalent consensual security
5 interest) that constitutes a lien is created or retained against an
6 interest in real property in Indiana.
7 (5) A consumer loan subject to ~~IC 24-4.5-3~~ ~~↔~~ ~~↔~~ ~~IC 37-2-4~~ in
8 which a mortgage (or another equivalent consensual security
9 interest) that constitutes a lien is created or retained against an
10 interest in real property in Indiana.
11 (6) A loan in which a mortgage (or another equivalent
12 consensual security interest) that constitutes a lien is created or
13 retained against land:
14 (A) that is located in Indiana;
15 (B) upon which there is a dwelling that is not or will not be
16 used by the borrower primarily for personal, family, or
17 household purposes; and
18 (C) that is classified as residential for property tax purposes.
19 The term includes a loan that is secured by land in Indiana upon
20 which there is a dwelling that is purchased by or through the
21 borrower for investment or other business purposes.
22 (c) The term does not include a land contract.
23 SECTION 31. IC 24-5-23.6-1, AS ADDED BY P.L.115-2010,
24 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2026]: Sec. 1. (a) As used in this chapter, "creditor" means:
26 (1) a person:
27 (A) that engages in Indiana in the extension of mortgages
28 that are subject to a credit service charge or loan finance
29 charge, as applicable, or are payable by written agreement
30 in more than four (4) installments (not including a down
31 payment); and
32 (B) to whom the obligation arising from a mortgage is
33 initially payable, either on the face of the note or contract,
34 or by agreement if there is not a note or contract; or
35 (2) a person who brokers a mortgage, including a person who:
36 (A) directly or indirectly solicits, processes, places, or
37 negotiates mortgages for others;
38 (B) offers to solicit, process, place, or negotiate mortgages
39 for others; or
40 (C) closes mortgages that may be in the person's own name
41 with funds provided by others and that are thereafter
42 assigned to the person providing funding for the mortgages.

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1 (b) The term does not include a person described in
2 ~~IC 24-9-2-6(b).~~ **IC 37-5-2-6(b).**

3 SECTION 32. IC 24-5-23.6-7, AS AMENDED BY P.L.89-2011,
4 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2026]: Sec. 7. (a) As used in this chapter, "mortgage" means
6 a sale or loan, or the refinancing or consolidation of a sale or loan, in
7 which a first mortgage deed of (or another equivalent consensual
8 security interest) that constitutes a first lien, is created or retained
9 against land that is located in Indiana and upon which there is a
10 dwelling that is or will be used by the debtor primarily for personal,
11 family, or household purposes.

12 (b) The term includes any of the following that meets the
13 conditions set forth in subsection (a):

- 14 (1) A home loan subject to ~~IC 24-9-~~ **IC 37-5.**
- 15 (2) A loan described in ~~IC 24-9-1-1,~~ **IC 37-5-1-1,** to the
16 extent allowed under federal law.
- 17 (3) A first lien mortgage transaction (as defined in
18 ~~IC 24-4.4-1-301)~~ **IC 37-1-2)** subject to ~~IC 24-4.4-~~ **IC 37-1.**

19
20 (c) The term does not include a land contract (as defined in
21 ~~IC 24-4.4-1-301(36)).~~ **IC 37-1-2-21).**

22 SECTION 33. IC 24-5-24-3, AS ADDED BY P.L.104-2007,
23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2026]: Sec. 3. (a) As used in this chapter, "consumer reporting
25 agency" means any person that, for monetary fees or dues, or on a
26 cooperative nonprofit basis, regularly engages in whole or in part in the
27 practice of assembling or evaluating information concerning a
28 consumer's credit or other information for the purpose of furnishing a
29 consumer report to another person.

30 (b) The term does not include an entity designated as a
31 commercially reasonable private consumer credit reporting entity under
32 ~~IC 24-4.5-7-404(5).~~ **IC 37-3-3-8(e).**

33 SECTION 34. IC 24-5.5 IS REPEALED [EFFECTIVE JULY 1,
34 2026]. (Mortgage Rescue Protection Fraud).

35 SECTION 35. IC 24-7-1-2, AS AMENDED BY P.L.159-2017,
36 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2026]: Sec. 2. Except as provided in this article, the
38 provisions of:

- 39 (1) the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.)
40 and regulations adopted under that act;
- 41 (2) ~~IC 24-4.5;~~ **IC 37-2;**
- 42 (3) IC 26-1-1-201(37);

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- 1 (4) IC 26-1-2 concerning the creation of a security interest in
 2 property;
 3 (5) IC 26-1-9.1; and
 4 (6) rules adopted under the statutes described in subdivisions (2)
 5 through (5);

6 do not apply to a rental purchase agreement.

7 SECTION 36. IC 24-7-1-5, AS AMENDED BY P.L.176-2019,
 8 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2026]: Sec. 5. (a) Rental purchase agreements involving:

- 10 (1) motor vehicles (as defined in IC 9-13-2-105(a)), including:
 11 (A) component parts (as defined in IC 9-13-2-34);
 12 (B) major component parts (as defined in IC 9-13-2-95);
 13 and
 14 (C) any other parts (as defined in IC 9-13-2-122) other than:
 15 (i) wheels;
 16 (ii) rims; and
 17 (iii) tires;
 18 necessary to operate a motor vehicle;
 19 (2) other titled property; or
 20 (3) live domestic animals (as defined in IC 34-30-30-1);
 21 are prohibited under this article.

22 (b) If the director determines that a transaction described in
 23 IC 24-7-2-9(a) involves the application of subterfuge for the purpose
 24 of avoiding the application of the Uniform Consumer Credit Code ~~IC 24-4-5~~, ~~(IC 37-2)~~, the director may treat the transaction as a
 25 disguised consumer credit sale that is subject to ~~IC 24-4-5~~. ~~IC 37-2~~. A determination by the director under this subsection:

- 26 (1) must be in writing;
 27 (2) shall be delivered to all parties in the transaction; and
 28 (3) is subject to IC 4-21.5-3.

29 SECTION 37. IC 24-7-1-7, AS ADDED BY P.L.89-2011,
 30 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2026]: Sec. 7. This article does not apply to the rental
 32 purchase of a dwelling (as defined in ~~IC 24-4-1-301(1)~~), ~~IC 37-1-2-15~~, regardless of whether the dwelling is assessed as real
 33 or personal property for property tax purposes.

34 SECTION 38. IC 24-7-2-2 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. "Department" has the
 36 meaning set forth in ~~IC 24-4-5-6-103~~. ~~IC 37-2-2-15.7~~.

37 SECTION 39. IC 24-7-2-2.5, AS ADDED BY P.L.159-2017,
 38 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 2.5. "Consumer Credit Protection Act" has the

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1 meaning set forth in ~~IC 24-4.5-1-302~~. **IC 37-2-2-11.**

2 SECTION 40. IC 24-7-6-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) ~~IC 24-4.5-5-105~~
4 ~~and IC 24-4.5-5-106~~ **IC 37-2-6-4 and IC 37-2-6-5** apply to
5 garnishments related to a rental purchase agreement.

6 (b) With respect to a debt arising from a rental purchase
7 agreement, regardless of where made, the lessor may not attach unpaid
8 earnings of the debtor by garnishment proceedings or other similar
9 proceedings before the entry of a judgment in an action against the
10 lessee arising from a rental purchase agreement.

11 SECTION 41. IC 24-7-7-1, AS AMENDED BY P.L.93-2024,
12 SECTION 175, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) The department shall enforce
14 this article. To carry out this responsibility, the department may do the
15 following:

16 (1) Receive and act on complaints, take action designed to obtain
17 voluntary compliance with this article, or commence
18 proceedings on the department's own initiative.

19 (2) Issue and enforce administrative orders under IC 4-21.5.

20 (3) Counsel persons and groups on their rights and duties under
21 this article.

22 (4) Establish programs for the education of consumers with
23 respect to rental purchase agreement practices and problems.

24 (5) Make studies appropriate to effectuate the purposes and
25 policies of this article and make the results available to the
26 public.

27 (6) Adopt rules under IC 4-22-2 to carry out this article.

28 (7) Maintain more than one (1) office within Indiana.

29 (8) Bring a civil action to restrain a person from violating this
30 article and for other appropriate relief, and exercise the same
31 enforcement powers provided under ~~IC 24-4.5-6-108~~. **IC 37-2-7-9.**

32 (9) Require a lessor to refund to the lessee any overcharges
33 resulting from the lessor's noncompliance with:

34 (A) the terms of a rental purchase agreement; or

35 (B) this article, or any order or rule issued or adopted by the
36 department under this article.

37 (b) If the department determines, after notice and an opportunity
38 to be heard, that a person has violated this article, or any order or rule
39 issued or adopted by the department under this article, the department
40 may, in addition to or instead of all other remedies available under this
41 section, impose upon the person a civil penalty not greater than ten
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1 thousand dollars (\$10,000) per violation.
 2 SECTION 42. IC 24-9 IS REPEALED [EFFECTIVE JULY 1,
 3 2026]. (Home Loan Practices).
 4 SECTION 43. IC 24-10-2-1, AS ADDED BY P.L.121-2011,
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2026]: Sec. 1. (a) The consumer protection assistance fund is
 7 established for the purpose of compensating qualifying individuals who
 8 submit qualifying claims to the office. The fund shall be administered
 9 by the office.
 10 (b) The fund consists of:
 11 (1) appropriations made to the fund by the general assembly;
 12 (2) grants, gifts, and donations intended for deposit in the fund;
 13 and
 14 (3) at the discretion of the office, money recovered or received
 15 by the office for consumer protection purposes if use of the
 16 money is not otherwise restricted.
 17 (c) Money in the fund may be used to make payments to qualifying
 18 individuals who file qualifying claims with the office in connection
 19 with a case involving a violation by one (1) or more other persons of
 20 any of the following statutes, including rules adopted under the
 21 authority of the following statutes:
 22 (1) IC 24-4.7 (concerning telephone solicitation of consumers)
 23 if the case concerns a violation involving telephone solicitations
 24 made in connection with any practice or transaction governed by
 25 a statute described in subdivisions (2) through (4).
 26 (2) IC 24-5-15 (concerning credit services organizations).
 27 (3) ~~IC 24-5-5~~ [**IC 37-4** (concerning mortgage rescue fraud).
 28 (4) ~~IC 24-9~~ [**IC 37-5** (concerning home loan practices).
 29 (d) The expenses of administering the fund shall be paid from
 30 money in the fund.
 31 (e) The treasurer of state shall invest the money in the fund not
 32 currently needed to meet the obligations of the fund in the same
 33 manner as other public money may be invested. Interest that accrues
 34 from these investments shall be deposited in the fund.
 35 (f) Money in the fund at the end of a state fiscal year does not
 36 revert to the state general fund.
 37 SECTION 44. IC 24-12-5-1, AS AMENDED BY P.L.176-2019,
 38 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 1. (a) The department of financial institutions may
 40 enforce this article.
 41 (b) With respect to CPAP transactions and CPAP providers, the
 42 department has all powers of administration, investigation, and

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1 enforcement set forth in:

2 (1) ~~IC 24-4.5-6;~~ **IC 37-2-7**; and

3 (2) IC 28-11-4;

4 including the authority to levy a civil penalty.

5 SECTION 45. IC 25-11-1-2, AS AMENDED BY P.L.159-2017,
6 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2026]: Sec. 2. The term "collection agency" does not include
8 the following:

9 (a) Attorney at law.

10 (b) Persons regularly employed on a regular wage or salary in the
11 capacity of credit men or in a similar capacity except as an
12 independent contractor.

13 (c) Banks, trust departments, fiduciaries, ~~and~~ financial
14 institutions, licensees under ~~IC 24-4.4 and IC 24-4.5;~~ **IC 37-1 and IC 37-2**, and licensees under IC 28-5-1.

16 (d) Licensed real estate brokers.

17 (e) Employees of licensees under this chapter.

18 (f) Any person, firm, partnership, limited liability company, or
19 corporation engaged in any business enterprise in the state
20 whose primary object, business, or pursuit is not the collection
21 of claims, as the term is defined by this chapter.

22 (g) Any electric, gas, water, or telephone public utility and its
23 respective employees, agents, representative agents,
24 representatives, and individual contractors.

25 (h) Any express company regulated under IC 8-2.1 or IC 8-3.

26 SECTION 46. IC 25-34.1-6-2.5, AS AMENDED BY
27 P.L.114-2010, SECTION 23, IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2.5. (a) A violation of:

29 (1) IC 24-5-15; or

30 (2) ~~IC 24-5.5;~~ **IC 37-4**;

31 by a person licensed or required to be licensed under this article is a
32 violation of this article.

33 (b) A person who commits a violation described in subsection (a)
34 commits a Class A infraction and is subject to:

35 (1) the enforcement procedures described in section 2 of this
36 chapter; and

37 (2) any sanction that may be imposed by the commission under
38 IC 25-1-11-12.

39 SECTION 47. IC 26-1-1-108.1, AS AMENDED BY
40 P.L.177-2019, SECTION 14, IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 108.1. (a) The secretary
42 of state may provide that a document required to be filed under this



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1 article with the secretary of state may be filed by electronic
2 transmission meeting the requirements established by the secretary of
3 state.

4 (b) The secretary of state may accept payment of a filing fee for a
5 document filed by electronic transmission by credit card, debit card,
6 charge card, or similar method. However, if the filing fee is paid by
7 credit card, debit card, charge card, or similar method, the liability is
8 not finally discharged until the secretary of state receives payment or
9 credit from the institution responsible for making the payment or credit.

10 (c) The secretary of state may contract with a bank or credit card
11 vendor for acceptance of bank or credit cards. However, if there is a
12 vendor transaction charge or discount fee, whether billed to the
13 secretary of state or charged directly to the secretary of state's account,
14 the secretary of state or the credit card vendor may collect from the
15 person using the bank or credit card a fee that may not exceed the
16 highest transaction charge or discount fee charged to the secretary of
17 state by the bank or credit card vendor during the most recent
18 collection period. The fee may be collected regardless of any
19 agreement between the bank and a credit card vendor or regardless of
20 any internal policy of the credit card vendor that may prohibit this type
21 of fee. The fee is a permitted additional charge under
22 ~~IC 24-4.5-3-202.~~ **IC 37-2-4-5.**

23 SECTION 48. IC 26-1-12-103, AS ADDED BY P.L.199-2023,
24 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2026]: Sec. 103. (a) If there is a conflict between this chapter
26 and IC 26-1-9.1, IC 26-1-9.1 governs.

- 27 (b) A transaction subject to this chapter is subject to:
- 28 (1) any applicable rule of law that establishes a different rule for
- 29 consumers; and
- 30 (2) any:
 - 31 (A) other statute or regulation that regulates the rates,
 - 32 charges, agreements, and practices for loans, credit sales, or
 - 33 other extensions of credit, including ~~IC 24-4.5;~~ **IC 37-2 and IC 37-3;** and
 - 34 **IC 37-2 and IC 37-3;** and
 - 35 (B) consumer protection statute or regulation.

36 SECTION 49. IC 26-2-7-2, AS AMENDED BY P.L.217-2007,
37 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2026]: Sec. 2. (a) As used in this chapter, "financial
39 institution" refers to a financial institution (as defined in IC 28-1-1-3).

40 (b) The term does not include a person licensed under ~~IC 24-4.5.~~
41 **IC 37-2 or IC 37-3.**

42 SECTION 50. IC 26-2-9-2 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. As used in this
2 chapter, "creditor" means:

3 (1) a bank, a savings bank, a trust company, a savings
4 association, a credit union, an industrial loan and investment
5 company, or any other financial institution regulated by any
6 agency of the United States or any state, including a consumer
7 finance institution licensed to make supervised or regulated
8 loans under ~~IC 24-4.5;~~ **IC 37-2 or IC 37-3;**

9 (2) a person authorized to sell and service loans for the Federal
10 National Mortgage Association or the Federal Home Loan
11 Mortgage Corporation, issue securities backed by the
12 Government National Mortgage Association, make loans insured
13 by the United States Department of Housing and Urban
14 Development, make loans guaranteed by the United States
15 Department of Veterans Affairs, or act as a correspondent of
16 loans insured by the United States Department of Housing and
17 Urban Development or guaranteed by the United States
18 Department of Veterans Affairs; or

19 (3) an insurance company or its affiliates that extend credit
20 under a credit agreement with a debtor.

21 SECTION 51. IC 27-1-31-1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) Except as
23 provided in subsection (b), this chapter applies to all lines of
24 commercial property and casualty insurance.

25 (b) This chapter:

26 (1) does not apply to the cancellation or nonrenewal of
27 automobile insurance policies, as restricted under IC 27-7-6; and

28 (2) does not affect requirements applying to:

29 (A) the cancellation of medical malpractice insurance
30 policies under IC 34-18-13-4 (or IC 27-12-13-4 before its
31 repeal); or

32 (B) the cancellation of property or liability insurance by a
33 creditor under ~~IC 24-4.5-4-304.~~ **IC 37-2-5-17.**

34 SECTION 52. IC 27-7-3-22, AS AMENDED BY P.L.236-2025,
35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2026]: Sec. 22. (a) In a residential real estate transaction
37 described in subsection (f) in which:

38 (1) a title policy is issued by a company or title insurance
39 producer on behalf of a company; and

40 (2) the company or title insurance producer will also act as a
41 settlement or closing agent;

42 the company or title insurance producer shall issue a closing protection

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1 letter to the lender, borrower, buyer, and seller of the property. A
2 company authorized to do business under section 3 of this chapter shall
3 charge a fee approved under subsection (e) to each party receiving the
4 benefit of a closing protection letter.

- 5 (b) In a nonresidential real estate transaction in which:
 - 6 (1) a title policy is issued by a company or title insurance
 - 7 producer on behalf of a company; and
 - 8 (2) the company or title insurance producer will also act as a
 - 9 settlement or closing agent;

10 the company or title insurance producer may issue a closing protection
11 letter to the lender, borrower, buyer, and seller of the property on
12 request.

13 (c) A closing protection letter issued under this section must
14 indemnify the party to which the closing protection letter is issued
15 against any loss of settlement funds (under the terms and conditions of
16 the closing protection letter) that results from the following acts of the
17 company or title insurance producer that issues the closing protection
18 letter:

- 19 (1) Theft or misappropriation of settlement funds in connection
20 with a transaction in which the title policy is issued, only to the
21 extent that the theft or misappropriation relates to the:
 - 22 (A) status of title to; or
 - 23 (B) validity, enforceability, and priority of the lien of the
 - 24 mortgage on;

25 the party's interest in land.

26 (2) Failure to comply with the written closing instructions agreed
27 to by the company or title insurance producer acting as the
28 settlement agent, only to the extent that the failure relates to the:

- 29 (A) status of title to; or
- 30 (B) validity, enforceability, and priority of the lien of the
- 31 mortgage on;

32 the party's interest in land.

33 (d) The issuance of a closing protection letter under this section in
34 contemplation of or in conjunction with the issuance of a title insurance
35 policy is part of the business of title insurance for purposes of section
36 3 of this chapter.

37 (e) The amount of the fee that a company authorized to do
38 business under section 3 of this chapter charges to each party receiving
39 the benefits of a closing protection letter:

- 40 (1) must be submitted to and approved by the commissioner
- 41 under IC 27-1-22-28; and
- 42 (2) is not subject to an agreement requiring a division of fees or

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- 1 premiums collected on behalf of the company.
- 2 (f) Subsection (a) applies to the following transactions:
- 3 (1) A mortgage transaction (as defined in ~~IC 24-9-3-7(a)~~) ~~<>~~ [
- 4 **IC 37-5-3-7(a)**) that:
- 5 (A) is:
- 6 (i) a first lien purchase money mortgage transaction; or
- 7 (ii) a refinancing transaction; and
- 8 (B) is closed by a closing agent after December 31, 2009.
- 9 (2) A real estate transaction (as defined in ~~IC 24-9-3-7(b)~~) ~~<>~~ [
- 10 **IC 37-5-3-7(b)**) that:
- 11 (A) does not involve a mortgage transaction described in
- 12 subdivision (1); and
- 13 (B) is closed by a closing agent (as defined in
- 14 IC 6-1.1-12-43(a)(2)) after December 31, 2011.
- 15 SECTION 53. IC 28-1-1-3, AS AMENDED BY P.L.137-2014,
- 16 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2026]: Sec. 3. Unless a different meaning is required by the
- 18 context, the following definitions apply throughout this article:
- 19 (1) "Financial institution" means any bank, trust company,
- 20 corporate fiduciary, savings association, credit union, savings
- 21 bank, bank of discount and deposit, or industrial loan and
- 22 investment company organized or reorganized under the laws of
- 23 this state, and includes licensees under ~~IC 24-4.4, IC 24-4.5,~~ ~~<>~~ [
- 24 **IC 37-1, IC 37-2,** and 750 IAC 9.
- 25 (2) "Bank" or "bank or trust company" means a financial
- 26 institution organized or reorganized as a bank, bank of discount
- 27 and deposit, or trust company under the laws of this state with
- 28 the express power to receive and accept deposits of money
- 29 subject to withdrawal by check, and possessing such other rights
- 30 and powers granted by the provisions of this article in express
- 31 terms or by implication. The term "bank" or "bank or trust
- 32 company" does not include a savings association, credit union,
- 33 or industrial loan and investment company.
- 34 (3) "Domestic corporation" means a corporation formed under
- 35 the laws of this state, and "foreign corporation" means every
- 36 other corporation.
- 37 (4) "Articles of incorporation" includes both the original articles
- 38 of incorporation and any and all amendments thereto, except
- 39 where the original articles of incorporation only are expressly
- 40 referred to, and includes articles of merger and consolidation,
- 41 and, in the case of corporations organized before July 1, 1933,
- 42 articles of reorganization, and all amendments thereto.

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- 1 (5) "Incorporator" means one (1) of the signers of the original
2 articles of incorporation.
- 3 (6) "Subscriber" means one who subscribes for shares of stock
4 in a financial institution.
- 5 (7) "Shareholder" means one who is a holder of record of shares
6 of stock in a financial institution.
- 7 (8) "Capital stock" means the aggregate amount of the par value
8 of all shares of capital stock.
- 9 (9) "Capital" means the aggregate amount paid in on the shares
10 of capital stock of a financial institution issued and outstanding.
- 11 (10) "Capital and surplus" or "unimpaired capital and
12 unimpaired surplus" has the meaning set forth in 12 CFR 32.2.
- 13 (11) "Assets" includes all of the property and rights of every kind
14 of a financial institution, and the term "fixed assets" means such
15 assets as are not intended to be sold or disposed of in the
16 ordinary course of business.
- 17 (12) "Principal office" means that office maintained by the
18 financial institution in this state, the address of which is required
19 by the provisions of this article to be kept on file in the office of
20 the secretary of state.
- 21 (13) "Subscription" means any written agreement or undertaking,
22 accepted by a financial institution, for the purchase of shares of
23 capital stock in the financial institution.
- 24 (14) "Department" means the department of financial
25 institutions.
- 26 (15) "Member" means a member of the department of financial
27 institutions.
- 28 (16) "Branch" means any office, agency, mobile unit, messenger
29 service, or other place of business at which deposits are received,
30 checks paid, or money lent. The term does not include:
- 31 (A) the principal office of a bank;
32 (B) the principal office of an affiliate;
33 (C) a branch of an affiliate;
34 (D) an automated teller machine;
35 (E) a night depository;
36 (F) a temporary facility authorized in IC 28-2-13-22.5;
37 (G) a loan production office;
38 (H) a deposit production office; or
39 (I) other service delivery mechanisms not considered by the
40 director to be a branch.
- 41 (17) "Subsidiary" means any foreign or domestic corporation or
42 limited liability company in which the parent bank, savings

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- 1 bank, savings association, or industrial loan and investment
- 2 company had at least eighty percent (80%) ownership before
- 3 July 1, 1999, or is formed or acquired in accordance with
- 4 IC 28-13-16 after June 30, 1999.
- 5 (18) "Savings bank" means a financial institution that:
 - 6 (A) was organized, reorganized, or operating under IC 28-6
 - 7 (before its repeal) before January 1, 1993;
 - 8 (B) is formed as the result of a conversion under:
 - 9 (i) IC 28-1-21.7;
 - 10 (ii) IC 28-1-21.8;
 - 11 (iii) IC 28-1-21.9; or
 - 12 (iv) IC 28-1-30; or
 - 13 (C) is incorporated under IC 28-12.
- 14 (19) "Corporate fiduciary" means a financial institution whose
- 15 primary business purpose is to engage in the trust business (as
- 16 defined in IC 28-14-1-8) and the execution and administration of
- 17 fiduciary accounts as a nondepository trust company
- 18 incorporated under Indiana law.
- 19 SECTION 54. IC 28-1-2-6.5, AS AMENDED BY P.L.176-2019,
- 20 SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2026]: Sec. 6.5. (a) A financial institution (as defined in
- 22 IC 28-1-1-3(1)), except for a licensee under ~~IC 24-4.4, IC 24-4.5, <=>~~ [
- 23 **IC 37-1, IC 37-2**, or 750 IAC 9, shall comply with the following:
 - 24 (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.).
 - 25 (2) The USA Patriot Act of 2001 (P.L. 107-56).
 - 26 (3) Any regulations, policies, or reporting requirements
 - 27 established by the Financial Crimes Enforcement Network of the
 - 28 United States Department of the Treasury.
 - 29 (4) Subchapter II of Chapter 53 of Title 31 of the United States
 - 30 Code, including 31 U.S.C. 5318(l), and 31 CFR Chapter X,
 - 31 including 31 CFR 1020.220.
 - 32 (5) Any other state or federal money laundering statutes or
 - 33 regulations that apply to a financial institution (as defined in
 - 34 IC 28-1-1-3(1)) other than a licensee under ~~IC 24-4.4,~~
 - 35 ~~IC 24-4.5, <=>~~ [**IC 37-1, IC 37-2**, or 750 IAC 9.
 - 36 (b) The department shall do the following:
 - 37 (1) To the extent authorized or required by state law, investigate
 - 38 potential violations of, and enforce compliance with, state money
 - 39 laundering statutes or regulations.
 - 40 (2) Investigate potential violations of federal money laundering
 - 41 statutes or regulations and, to the extent authorized or required
 - 42 by federal law:

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1 (A) enforce compliance with the federal statutes or
2 regulations; or

3 (B) refer suspected violations of the federal statutes or
4 regulations to the appropriate federal regulatory agencies.

5 SECTION 55. IC 28-1-2-30, AS AMENDED BY P.L.222-2025,
6 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2026]: Sec. 30. (a) As used in this section, "financial
8 institution" means any bank, trust company, corporate fiduciary,
9 savings association, credit union, savings bank, bank of discount and
10 deposit, or industrial loan and investment company organized or
11 reorganized under the laws of this state, and includes licensees and
12 registrants under ~~IC 24-4.4, IC 24-4.5~~, IC 24-7, IC 24-12, IC 28-1-29,
13 IC 28-7-5, IC 28-8-4.1, IC 28-8-5, IC 28-8-6, ~~IC 37-1, IC 37-2~~,
14 and 750 IAC 9.

15 (b) Except as otherwise provided, a member of the department or
16 the director or deputy, assistant, or any other person having access to
17 any such information may not disclose to any person, other than
18 officially to the department, by the report made to it, or to the board of
19 directors, partners, or owners, or in compliance with the order of a
20 court, the names of the depositors or shareholders in any financial
21 institution, or the amount of money on deposit in any financial
22 institution at any time in favor of any depositor, or any other
23 information concerning the affairs of any such financial institution.

24 SECTION 56. IC 28-1-2-30.5, AS AMENDED BY P.L.35-2010,
25 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2026]: Sec. 30.5. (a) This section applies to the following:

- 27 (1) Any:
 - 28 (A) financial institution;
 - 29 (B) person required to file notification with the department
 - 30 under ~~IC 24-4.5-6-202~~; ~~IC 37-2-7-25~~;
 - 31 (C) person subject to IC 24-7; or
 - 32 (D) other person subject to regulation by the department.

33 (2) Any person licensed or required to be licensed under
34 ~~IC 24-4.4 or IC 24-4.5~~. **IC 37-1 or IC 37-2.**

35 (b) As used in this section, "customer", with respect to a person
36 described in subsection (a), means an individual consumer, or the
37 individual's legal representative, who obtains or has obtained from the
38 person a financial:

- 39 (1) product; or
- 40 (2) service;

41 that is to be used primarily for personal, family, or household purposes.
42 The term does not include an affiliate of the person.

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- 1 (c) As used in this section, "personal information" includes any of
 2 the following:
 3 (1) An individual's first and last names or first initial and last
 4 name.
 5 (2) Any of the following data elements:
 6 (A) A Social Security number.
 7 (B) A driver's license number.
 8 (C) A state identification card number.
 9 (D) A credit card number.
 10 (E) A financial account number or debit card number.
 11 (3) With respect to an individual, any of the following:
 12 (A) Address.
 13 (B) Telephone number.
 14 (C) Information concerning the individual's:
 15 (i) income or other compensation;
 16 (ii) credit history;
 17 (iii) credit score;
 18 (iv) assets;
 19 (v) liabilities; or
 20 (vi) employment history.
 21 (d) As used in this section, personal information is "encrypted" if
 22 the personal information:
 23 (1) has been transformed through the use of an algorithmic
 24 process into a form in which there is a low probability of
 25 assigning meaning without use of a confidential process or key;
 26 or
 27 (2) is secured by another method that renders the personal
 28 information unreadable or unusable.
 29 (e) As used in this section, personal information is "redacted" if
 30 the personal information has been altered or truncated so that not more
 31 than the last four (4) digits of:
 32 (1) a Social Security number;
 33 (2) a driver's license number;
 34 (3) a state identification number; or
 35 (4) an account number;
 36 are accessible as part of the personal information.
 37 (f) As used in this section, "personal records" means any records
 38 that:
 39 (1) are maintained, whether as a paper record or in an electronic
 40 or a computerized form, by a person to whom this section
 41 applies; and
 42 (2) contain the unencrypted, unredacted personal information of

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- 1 one (1) or more customers or potential customers.
- 2 (g) A person to whom this section applies shall keep and handle
3 personal records in a manner that:
- 4 (1) reasonably safeguards the personal records from destruction,
5 theft, or other loss; and
- 6 (2) protects the personal records from misuse.
- 7 (h) If a breach of the security of any personal records occurs, the
8 person maintaining the records is subject to the disclosure requirements
9 under IC 24-4.9-3, unless the person is exempt from the disclosure
10 requirements under IC 24-4.9-3-4.
- 11 (i) A person to whom this section applies may not dispose of
12 personal records without first:
- 13 (1) shredding, incinerating, or mutilating the personal records;
14 or
- 15 (2) erasing or otherwise rendering illegible or unusable the
16 personal information contained in the records.
- 17 (j) If a person to whom this section applies ceases doing business,
18 the person shall, as part of the winding up of the business, safeguard
19 any personal records maintained by the person in accordance with this
20 section until such time as the person is entitled or required to destroy
21 the records under:
- 22 (1) applicable law; or
- 23 (2) the person's own records maintenance policies.
- 24 (k) A person to whom this section applies shall provide at the
25 person's cost any records that the director considers relevant or material
26 to an examination, investigation, or other matter under consideration
27 by the department.
- 28 SECTION 57. IC 28-1-3.1-2, AS AMENDED BY P.L.176-2019,
29 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2026]: Sec. 2. (a) The department may take possession of the
31 business and property of any financial institution except a creditor
32 licensed to make supervised or regulated loans under ~~IC 24-4.5, <>~~
33 **IC 37-2**, whenever it appears to the department that the financial
34 institution:
- 35 (1) is insolvent or in imminent danger of insolvency;
- 36 (2) is in an unsafe or unsound condition;
- 37 (3) has refused to pay its deposits or obligations in accordance
38 with the terms under which those deposits or obligations were
39 incurred;
- 40 (4) has refused to submit its records and affairs for inspection or
41 examination by the department or federal authorities;
- 42 (5) has violated any court order, statute, rule, or regulation of the

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1 department or its articles of incorporation and that continued
 2 control of its own affairs threatens injury to the public, the
 3 financial community, its depositors, or other creditors;
 4 (6) requests through its board of directors that the department
 5 take possession for the benefit of depositors, other creditors,
 6 shareholders, or other persons;
 7 (7) has an impairment of its capital (the capital of a bank or trust
 8 company shall, for the purpose of this subdivision, be considered
 9 to be unimpaired so long as the sound value of its assets over and
 10 above its liabilities, exclusive of liabilities for capital notes,
 11 debentures, and capital stock, as determined by the department,
 12 equals or exceeds the minimum capital or capital stock required
 13 by the department for a bank or trust company);
 14 (8) has neglected or refused, for a period of thirty (30) days, to
 15 comply with the terms of a duly issued order of the department,
 16 essential to preserve the solvency of the financial institution;
 17 (9) has failed to pay the fees charged by the department under
 18 IC 28-11-3-5 after due notice of the amount of the fee has been
 19 given;
 20 (10) has breached a fiduciary duty under IC 30-4-3-6; or
 21 (11) has violated IC 30-4-3-7 in a way that has caused or may
 22 cause harm to fiduciary accounts.

23 (b) When the department makes a determination to take possession
 24 of the business and property of a financial institution under subsection
 25 (a), the department shall:

26 (1) make a finding to that effect and enter that finding on the
 27 records of the proceedings of the department; and
 28 (2) cause a certified copy of the finding to be served on the
 29 president or other executive officer actively in charge of the
 30 financial institution and demand possession of the business,
 31 property, and records of the financial institution from the officer.
 32 The financial institution shall immediately surrender the
 33 possession to the department.

34 (c) The department or its receiver is not required to become the
 35 owner of any property to fulfill the liquidation requirements of this
 36 chapter.

37 SECTION 58. IC 28-2-17-23 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 23. (a) An out-of-state
 39 state bank that establishes and maintains one (1) or more branches in
 40 Indiana under this chapter may conduct at the branch or branches only
 41 those activities that are expressly authorized under the laws of Indiana
 42 for Indiana state banks.

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1 (b) An Indiana state bank may conduct any activities at any branch
2 located outside Indiana that are permissible for a bank organized or
3 reorganized by the host state in which the branch is located. However,
4 if Indiana law specifically prohibits an activity that is permitted by the
5 host state, the department may by order waive the prohibition if the
6 department determines that the involvement of out-of-state branches of
7 Indiana state banks in the particular activities conducted in the host
8 state would not threaten the safety or soundness of banks. This section
9 does not authorize a bank located in Indiana to engage in an activity in
10 Indiana that has been waived under this provision.

11 (c) An out-of-state bank that has acquired a branch in Indiana
12 under this chapter may establish or acquire additional branches in
13 Indiana to the same extent that any Indiana bank may establish or
14 acquire a branch in Indiana under applicable federal and Indiana law.

15 (d) With the prior approval of the department, an Indiana state
16 bank that has acquired a branch or branches in a state other than
17 Indiana through an interstate merger transaction may establish or
18 acquire additional branches in the host state to the same extent that a
19 host state state bank may establish or acquire a branch in the host state
20 under the applicable host state law and federal law. An Indiana state
21 bank desiring to establish one (1) or more branches under this section
22 must file a written application with the director. The application must
23 be in the form and must contain the information prescribed by the
24 director. The department may approve or disapprove the application.
25 Before the department approves the application, the bank must
26 demonstrate to the satisfaction of the department that:

- 27 (1) the applicant state bank will have adequate capital, sound
28 management, and adequate future earnings prospects after the
29 establishment of the branch; and
- 30 (2) the establishment of the proposed branch will not violate the
31 laws of the host state.

32 (e) The investigation of the department relative to any application
33 as required by this section shall be conducted without a public hearing.

34 (f) The branch or branches of an out-of-state bank that are
35 established and maintained in Indiana under this chapter shall be
36 subject to the provisions and fees of ~~IC 24-4.5~~ [IC 37-2](#) to the same
37 extent as a bank located in Indiana.

38 SECTION 59. IC 28-2-18-24 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 24. (a) An out-of-state
40 state bank that establishes and maintains one (1) or more branches in
41 Indiana under this chapter may conduct at the branch or branches only
42 those activities that are expressly authorized under the laws of Indiana

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1 for Indiana state banks.
 2 (b) An Indiana state bank may conduct any activities at any branch
 3 located outside Indiana that are permissible for a bank organized or
 4 reorganized by the host state in which the branch is located. However,
 5 if Indiana law specifically prohibits an activity that is permitted by the
 6 host state, the department may by order waive the prohibition if the
 7 department determines that the involvement of out-of-state branches of
 8 Indiana state banks in the particular activities conducted in the host
 9 state would not threaten the safety or soundness of banks. This section
 10 does not authorize a bank located in Indiana to engage in an activity in
 11 Indiana that has been waived under this provision.

12 (c) An out-of-state bank that has established or acquired a branch
 13 or branches in Indiana under this chapter may establish or acquire
 14 additional branches in Indiana to the same extent that any Indiana bank
 15 may establish or acquire a branch in Indiana under applicable federal
 16 and state law.

17 (d) The branch or branches of an out-of-state bank that are
 18 established and maintained in Indiana under this chapter shall be
 19 subject to the provisions and fees of ~~IC 24-4.5~~ [IC 37-2](#) to the same
 20 extent as a bank located in Indiana.

21 SECTION 60. IC 28-5-1-6, AS AMENDED BY P.L.217-2007,
 22 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2026]: Sec. 6. (a) Every company may exercise all the powers
 24 conferred upon domestic corporations by IC 23-1 but only to the extent
 25 that those powers may be necessary, convenient, or expedient to
 26 accomplish the purposes for which it is organized. Subject to the
 27 restrictions and limitations contained in this chapter, every company
 28 may exercise the following powers:

29 (1) To issue, negotiate, and sell its secured or unsecured
 30 certificates of investment or indebtedness, subject to subdivision
 31 (16), upon terms and conditions, in any form, and payable at
 32 times that are not inconsistent with this chapter and, subject to
 33 subsection (c), bearing a rate of interest approved by the
 34 department.

35 (2) To make, purchase, discount, or otherwise acquire extensions
 36 of credit under ~~IC 24-4.5~~ [IC 37-2](#).

37 (3) To lend money without security or upon the security of
 38 comakers, personal endorsement, or the mortgage of real or
 39 personal property or the mortgage or pledge of bailment leases
 40 or rentals due and to become due thereunder and other choses in
 41 action, and to contract for interest, discount, fees, charges, or
 42 other consideration fixed or permitted by any laws of Indiana

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- 1 concerning interest, discount, or usury.
- 2 (4) To discount, purchase, or otherwise acquire notes, bills of
- 3 exchange, acceptances, bailment leases, and the property
- 4 covered thereby or the rentals due or to become due thereunder
- 5 or other choses in action and, subject to such restrictions the
- 6 department imposes, to become owner or lessor of personal or
- 7 real property acquired upon the request and for the use of a
- 8 customer, and to incur additional obligations incident to
- 9 becoming an owner or lessor of the property. The liability of a
- 10 lessee under the lease does not constitute an obligation (as
- 11 defined in section 8 of this chapter).
- 12 (5) To purchase or construct buildings and hold legal title to
- 13 them, to be leased for public purposes to municipal corporations
- 14 or other public authorities having resources sufficient to make
- 15 payment of all rentals as they become due. Each lease agreement
- 16 shall provide that upon expiration, the lessee shall become owner
- 17 of the building.
- 18 (6) To invest in bonds, notes, or certificates which are:
- 19 (A) the direct or indirect obligations of the United States or
- 20 of the state;
- 21 (B) obligations of mutual funds or financial institutions if
- 22 the obligations represent a participation in a fund invested
- 23 in, or are secured by, direct or indirect obligations of the
- 24 United States owned by the mutual fund or financial
- 25 institution;
- 26 (C) the direct obligations of a civil or school county,
- 27 township, city, town, other taxing district, or municipality
- 28 of Indiana;
- 29 (D) a special taxing district in Indiana;
- 30 (E) issued by or in the name of:
- 31 (i) the trustees of Indiana University;
- 32 (ii) the trustees of Purdue University;
- 33 (iii) the trustees of Ball State University;
- 34 (iv) the trustees of Indiana State University; or
- 35 (v) the Indiana finance authority;
- 36 (F) issued by or in the name of any municipality of Indiana
- 37 and payable from the revenues to be derived from the
- 38 operation of facilities for the production or distribution of
- 39 water, electricity, gas, or from the operation of sewage
- 40 works; or
- 41 (G) the obligations of any Indiana toll road commission,
- 42 public library, or schoolhouse holding corporation first

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1 mortgage bonds;
 2 which district, municipality, taxing unit, or corporation is not
 3 then in default in the payment of either principal or interest on
 4 any of its funded obligations and has not so defaulted for a
 5 period of more than six (6) months within the five (5) year
 6 period immediately preceding the purchase of the securities.
 7 (7) To invest in bonds, notes, or debentures rated in one (1) of
 8 the first four (4) classifications established by one (1) or more
 9 standard rating services specified by the department that satisfy
 10 requirements of marketability prescribed periodically by the
 11 department that are the obligations of a person, a firm, a limited
 12 liability company, a corporation, a state, a territory, an insular
 13 possession of the United States, or a county, township, town,
 14 city, taxing district, or municipality thereof which is not then in
 15 default in the payment of either principal or interest on any of its
 16 funded obligations and has not so defaulted within the five (5)
 17 year period immediately preceding the purchase of the securities
 18 and other investment securities prescribed by the department by
 19 rule. As used in this section, the term "investment securities"
 20 means marketable obligations evidencing indebtedness of a
 21 person, firm, limited liability company, or corporation in the
 22 form of bonds, notes, or debentures commonly known as
 23 "investment securities" and the definition of the term
 24 "investment securities" prescribed by the department by rule.
 25 Except as is otherwise provided in this chapter or otherwise
 26 permitted by law, nothing contained in this subdivision
 27 authorizes the purchase by an industrial loan and investment
 28 company of shares of stock or other securities, unless the
 29 purchase is necessary to prevent loss under a debt previously
 30 contracted in good faith and stocks or other securities so
 31 purchased or acquired shall, within six (6) months from the time
 32 of its purchase, be sold or disposed of at public or private sale,
 33 unless otherwise ordered by the department.
 34 (8) To invest in bonds or debentures issued under and by the
 35 authority of the Federal Home Loan Bank Act (12 U.S.C. 1421
 36 through 1429), or of the Home Owners' Loan Act (12 U.S.C.
 37 1461 through 1468), or obligations issued by or for farm credit
 38 banks, and banks for cooperatives under the Farm Credit Act of
 39 1971 (12 U.S.C. 2001 through 2279aa-14).
 40 (9) To invest in insured shares of an insured savings association
 41 organized under the laws of Indiana, and in insured shares of an
 42 insured federal savings association whose principal place of

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1 business is located in Indiana; and in certificates of indebtedness
 2 or investment of an industrial loan and investment company
 3 organized under the laws of Indiana. However, not more than
 4 twenty percent (20%) of the resources of the company may be
 5 invested in the insured shares of any such association nor more
 6 than ten percent (10%) of the company's capital and surplus in
 7 such certificates of industrial loan and investment companies.
 8 (10) To make loans and advances of credit and purchases of
 9 obligations representing loans and advances of credit as are
 10 eligible for insurance by the federal housing administrator, and
 11 to obtain insurance from the administrator.
 12 (11) To make loans secured by mortgage on real property or
 13 leasehold if:
 14 (A) the mortgage is insured by the federal housing
 15 administrator; or
 16 (B) the company makes a commitment to insure and to
 17 obtain insurance from the administrator, if the mortgage is
 18 not insured by the federal housing administrator.
 19 (12) To purchase, invest in, and dispose of notes or bonds
 20 secured by mortgage or trust deed insured by the federal housing
 21 administrator or debentures issued by the federal housing
 22 administrator, or bonds or other securities insured by national
 23 mortgage associations.
 24 (13) To discount, purchase, or otherwise acquire charge
 25 accounts, and drafts and bills of exchange evidencing charge
 26 accounts and to impose and collect monthly service charges and
 27 maintenance charges on charge accounts, drafts, or bills of
 28 exchange which are owned or acquired in amounts agreed upon
 29 between the company and the obligor, or obligors, on charge
 30 accounts, drafts, and bills of exchange.
 31 (14) To purchase or otherwise acquire property, real or personal,
 32 tangible or intangible, in which the company has a security
 33 interest to secure a debt owing to the company contracted in
 34 good faith or the purchase or acquisition of which property is
 35 considered expedient to prevent loss from a debt owing to the
 36 company contracted in good faith, and for such purpose to
 37 engage in any lawful business considered necessary or expedient
 38 by the company to preserve, protect, or make saleable the
 39 property. Property thus purchased or acquired shall be sold and
 40 disposed of within two (2) years, or a longer period permitted by
 41 the department, after the purchase or acquisition.
 42 (15) To act as trustee of a trust created in the United States and

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1 forming part of a stock bonus, pension, or profit sharing plan that
 2 is qualified for tax treatment under Section 401(d) of the Internal
 3 Revenue Code, and to act as trustee or custodian of an individual
 4 retirement account within the meaning of Section 408 of the
 5 Internal Revenue Code, if the funds of that trust or account are
 6 only invested in certificates of investment or indebtedness of the
 7 company or in obligations or securities issued by that company.
 8 All funds held under this subdivision in a fiduciary capacity may
 9 be commingled by the company for appropriate investment
 10 purposes. However, individual records shall be kept by the
 11 fiduciary for each participant and shall show in proper detail all
 12 transactions engaged in under the authority of this subdivision.

13 (16) To do anything necessary and appropriate to obtain or
 14 maintain federal deposit insurance under the Federal Deposit
 15 Insurance Corporation Act (12 U.S.C. 1811 through 1833e) or
 16 insurance under any other federal or Indiana law providing
 17 insurance for certificates of investment or indebtedness issued by
 18 a company. A company that obtains and maintains federal
 19 deposit insurance is not required to obtain approval from the
 20 department concerning the rate of interest payable on, or the
 21 form, the terms, or the conditions of the certificates of
 22 investment or indebtedness, and the company may exercise all
 23 of the powers that are conferred upon institutions maintaining
 24 federal deposit insurance that are not in conflict with Indiana
 25 law.

26 (17) To become a member of a federal home loan bank and
 27 acquire, own, pledge, sell, assign, or otherwise dispose of shares
 28 of the capital stock of a federal home loan bank.

29 (18) To borrow money and procure advances from a federal
 30 home loan bank and to transfer, assign to, and pledge with the
 31 federal home loan bank any of the bonds, notes, contracts,
 32 mortgages, securities, or other property of the company held or
 33 acquired as security for the payment of the loans and advances.

34 (19) To possess and exercise all rights, powers, and privileges
 35 conferred upon and do and perform all acts and things required
 36 of members or shareholders of a federal home loan bank, or by
 37 the provisions of 12 U.S.C. 1421 through 1449.

38 (20) Subject to section 6.3 of this chapter, to exercise the rights
 39 and privileges (as defined in section 6.3(a) of this chapter) that
 40 are or may be granted to national banks domiciled in Indiana.

41 (b) No law of this state prescribing the nature, amount, or form of
 42 security or requiring security upon which loans or advances of credit

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1 may be made, or prescribing or limiting interest rates upon loans or
 2 advances of credit, or prescribing or limiting the period for which loans
 3 or advances of credit may be made, applies to loans, advances of credit,
 4 or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

5 (c) If any national or state chartered bank or savings association is
 6 not limited by law with regard to the rate of interest payable on any
 7 type or category of checking account, savings account, or deposit,
 8 certificate of deposit, membership share, or other account, then
 9 industrial loan and investment companies are similarly not limited with
 10 regard to the interest payable on certificates of investment or
 11 indebtedness.

12 SECTION 61. IC 28-7-1-17, AS AMENDED BY P.L.54-2021,
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2026]: Sec. 17. (a) Every loan application shall be submitted
 15 on a form approved by the credit union. Loans may be disbursed upon
 16 written approval by a majority of the credit committee or a loan officer.
 17 If the credit committee or loan officer fails to approve an application
 18 for a loan, the applicant may appeal to the board of directors, if such
 19 appeal is authorized by the bylaws.

20 (b) Loans to members may be made only under the following
 21 terms and conditions:

22 (1) All loans shall be evidenced by notes signed by the
 23 borrowing member.

24 (2) Except as otherwise provided in this section, the terms of any
 25 loan to a member with a maturity of more than six (6) months
 26 shall provide for principal and interest payments that will
 27 amortize the obligation in full within the terms of the loan
 28 contract. If the income of the borrowing member is seasonal, the
 29 terms of the loan contract may provide for seasonal amortization.

30 (3) Loans may be made upon the security of improved or
 31 unimproved real estate. Except as otherwise specified in this
 32 section, such loans must be secured by a first lien upon real
 33 estate prior to all other liens, except for taxes and assessments
 34 not delinquent, and may be made with repayment terms other
 35 than as provided in subdivision (2). The credit union loan folder
 36 for all real estate mortgage loans shall include the following:

37 (A) The loan application.

38 (B) The mortgage instrument.

39 (C) The note.

40 (D) The disclosure statement.

41 (E) The documentation of property insurance.

42 (F) For the real estate for which the loan is made:

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(i) a written appraisal; or
(ii) a written estimate of market value;
consistent with the appraisal standards and transaction
value limitations set forth in the appraisal regulations of the
National Credit Union Administration (12 CFR 722).

(4) Subject to the limitations of subdivision (3), variable rate
mortgage loans and rollover mortgage loans may be made under
the same limitations and rights provided state chartered savings
associations under IC 28-1-21.5 (before its repeal) or IC 28-15
or federal credit unions.

(5) As used in this subdivision, "originating lender" means the
participating lender with which the member contracts. A credit
union may participate with other state and federal depository
financial institutions (as defined in IC 28-1-1-6) or credit union
service organizations in making loans to credit union members
and may sell a participating interest in any of its loans under
written participation loan policies established by the board of
directors. However, the credit union may not sell more than
ninety percent (90%) of the principal of participating loans
outstanding at the time of sale. A participating credit union that
is not the originating lender may participate only in loans made
to the credit union's own members or to members of another
participating state or federal credit union. A master participation
agreement must be properly executed. The agreement must
include provisions for identifying, either through documents
incorporated by reference or directly in the agreement, the
participation loan or loans before the sale of the loans.

(6) As an alternative to making any loan authorized by and under
the conditions set forth in subdivisions (1) through (5), a credit
union may make any of the following:

- (A) Any loan that may be made by a federal credit union.
However, ~~IC 24-4.5~~ <> [IC 37-2 applies to any loan that is:
 - (i) made under this clause; and
 - (ii) within the scope of ~~IC 24-4.5~~ <> [IC 37-2.

Any provision of federal law that is in conflict with
~~IC 24-4.5~~ <> [IC 37-2 does not apply to a loan made under
this clause.

(B) Subject to subdivision (3), any alternative mortgage
loan (as defined in IC 28-15-11-2) that may be made by a
savings association (as defined in IC 28-15-1-11) under
IC 28-15-11. A loan made under this clause by a credit
union is subject to the same terms, conditions, exceptions,

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1 and limitations that apply to an alternative mortgage loan
 2 made by a savings association under IC 28-15-11.
 3 (7) A credit union may make a loan under either:
 4 (A) subdivisions (2) through (5); or
 5 (B) subdivision (6);
 6 but not both. A credit union shall make an initial determination
 7 as to whether to make a loan under subdivisions (2) through (5)
 8 or under subdivision (6). If the credit union determines that a
 9 loan or category of loans is to be made under subdivision (6), the
 10 written loan policies of the credit union must include that
 11 determination. A credit union may not combine the terms and
 12 conditions that apply to a loan made under subdivisions (2)
 13 through (5) with the terms and conditions that apply to a loan
 14 made under subdivision (6) to make a loan not expressly
 15 described and authorized either under subdivisions (2) through
 16 (5) or under subdivision (6).
 17 (c) Nothing in this section prevents any credit union from taking
 18 an indemnifying or second mortgage on real estate as additional
 19 security.
 20 SECTION 62. IC 28-7-5-21, AS AMENDED BY P.L.159-2017,
 21 SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2026]: Sec. 21. (a) The pawnbroker shall, at the time of
 23 making a loan, deliver to the pledger or the pledger's agent a
 24 memorandum or ticket on which shall be legibly written or printed the
 25 following information:
 26 (1) The name of the pledger.
 27 (2) The name of the pawnbroker and the place where the pledge
 28 is made.
 29 (3) The article or articles pledged, and a description of the
 30 articles. However, if multiple articles of a similar nature that do
 31 not contain an identification or serial number (such as precious
 32 metals, gemstones, musical recordings, video recordings, books,
 33 or hand tools) are delivered together in one (1) transaction, the
 34 description of the articles is adequate if the description contains
 35 the quantity of the articles delivered and a physical description
 36 of the type of articles delivered, including any other unique
 37 identifying marks, numbers, names, letters, or special features.
 38 (4) The amount of the loan.
 39 (5) The date of the transaction.
 40 (6) The serial number of the loan.
 41 (7) The sum of the interest as provided in section 28 of this
 42 chapter and the charge as provided in section 28.5 of this chapter

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- 1 stated as an annual percentage rate computed in accordance with
 2 the Consumer Credit Protection Act (as defined in
 3 ~~IC 24-4.5-1-302~~) ~~↔~~ **IC 37-2-2-11**) and with regulations
 4 adopted under that act.
- 5 (8) The amount of interest.
- 6 (9) The amount of charge and principal due at maturity.
- 7 (10) A copy of sections 28, 28.5, and 30 of this chapter.
- 8 (11) The date of birth of the pledger.
- 9 (12) The type of government issued identification used to verify
 10 the identity of the pledger, together with the name of the
 11 governmental agency that issued the identification, and the
 12 identification number present on the government issued
 13 identification.
- 14 (13) The last date on which the pledged article or articles may be
 15 redeemed before the article or articles may be sold if the loan is
 16 not redeemed, renewed, or extended. The language setting forth
 17 the information described in this subdivision must be in 14 point
 18 boldface type.
- 19 (14) A statement that:
- 20 (A) notifies the pledger that the pawnbroking transaction is
 21 regulated by the department; and
- 22 (B) includes a toll free telephone number for the
 23 department.
- 24 (b) A pawnbroker may insert in such ticket any other terms and
 25 conditions not inconsistent with this chapter. However, nothing
 26 appearing on a pawn ticket shall relieve the pawnbroker of the
 27 obligations to exercise reasonable care in the safekeeping of articles
 28 pledged with the pawnbroker.
- 29 SECTION 63. IC 28-7-5-28 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 28. (a) The maximum
 31 rate of interest charged by pawnbrokers shall be the same as the
 32 maximum loan finance charge for supervised lenders under
 33 ~~IC 24-4.5-3-508(2)~~ ~~↔~~ **IC 37-2-4-35(b)**. For purposes of this
 34 subsection:
- 35 (1) the term of a loan commences on the date on which the loan
 36 is made;
- 37 (2) differences in lengths of months are disregarded; and
- 38 (3) each day is counted as one-thirtieth (1/30) of a month.
- 39 The minimum term of a loan made by a pawnbroker is one (1) month.
 40 However, on loans paid in full within the first month, the pawnbroker
 41 may charge one (1) month's interest.
- 42 (b) Interest shall not be deducted in advance, neither shall the

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1 pawnbroker induce or permit any borrower to split up or divide any
2 loan or loans for the purpose of evading any provisions of this chapter.

3 (c) If a pawnbroker charges or receives interest in excess of that
4 provided in this section, or makes any charges not authorized by this
5 chapter, the pawnbroker shall forfeit principal and interest and return
6 the pledge upon demand of the pledger and surrender of the pawn
7 ticket without the principal or interest. If such excessive or
8 unauthorized charges have been paid by the pledger, the pledger may
9 recover the same, including the principal if paid, in a civil action
10 against the pawnbroker.

11 SECTION 64. IC 28-8-6-201, AS ADDED BY P.L.222-2025,
12 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2026]: Sec. 201. The following definitions apply throughout
14 this chapter:

15 (1) "Consumer" means an individual who:

16 (A) resides in Indiana, as may be determined by a provider
17 on the basis of the:

18 (i) mailing address; or

19 (ii) state of residence;

20 provided by the individual; or

21 (B) requests proceeds in Indiana, as may be determined by
22 a provider by using any legal, readily available commercial
23 means to determine the location from which the individual
24 requests proceeds.

25 (2) "Consumer directed wage access services" means the
26 business by a provider of delivering to a consumer access to
27 earned but unpaid income based on:

28 (A) the consumer's representations of; and

29 (B) the provider's reasonable determination of;

30 the consumer's earned but unpaid income.

31 (3) "Control" means any of the following:

32 (A) The power to vote, directly or indirectly, at least
33 twenty-five percent (25%) of the outstanding voting shares
34 or voting interests of a licensee or of a person in control of
35 a licensee.

36 (B) The power to elect or appoint a majority of key
37 individuals or executive officers, managers, directors,
38 trustees, or other persons exercising managerial authority of
39 a person in control of a licensee.

40 (C) The power to exercise, directly or indirectly, a
41 controlling influence over the management or policies of a
42 licensee or of a person in control of a licensee. For purposes

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1 of this clause, a person is presumed to exercise a controlling
 2 influence if the person holds the power to vote, directly or
 3 indirectly, at least ten percent (10%) of the outstanding
 4 voting shares or voting interests of a licensee or of a person
 5 in control of a licensee, subject to the person's right to rebut
 6 the presumption if the person is a passive investor.

7 For purposes of this subdivision, the percentage of a person
 8 controlled by any other person is determined by aggregating the
 9 other person's interest with the interest of any other immediate
 10 family member of that person, including the person's spouse,
 11 parents, children, siblings, mothers-in-law and fathers-in-law,
 12 sons-in-law and daughters-in-law, and any other person who
 13 shares the person's home.

14 (4) "Department" refers to the members of the department of
 15 financial institutions.

16 (5) "Director" refers to the director of the department appointed
 17 under IC 28-11-2-1.

18 (6) "Earned but unpaid income", with respect to a consumer,
 19 means salary, wages, compensation, or other income that:

20 (A) the consumer represents, and a provider reasonably
 21 determines, has been earned by, or has accrued to the
 22 benefit of, the consumer in exchange for the consumer's
 23 provision of services to an employer or on behalf of an
 24 employer, including the provision of services by the
 25 consumer:

26 (i) on an hourly, project based, piecework, or other
 27 basis; and

28 (ii) regardless of whether the consumer is an employee
 29 of the employer or acts as an independent contractor
 30 with respect to the employer; but

31 (B) has not, at the time of payment of proceeds to the
 32 consumer by the provider, been paid to the consumer by the
 33 employer.

34 (7) "Earned wage access services" includes the following:

35 (A) Consumer directed wage access services.

36 (B) Employer integrated wage access services.

37 The term does not include a small loan.

38 (8) "Employer" means a person that employs a consumer or that
 39 is contractually obligated to pay a consumer earned but unpaid
 40 income. The term does not include:

41 (A) a customer of the person; or

42 (B) any other person whose obligation to make a payment

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- 1 of salary, wages, compensation, or other income to a
 2 consumer is not based on the provision of services by the
 3 consumer for or on behalf of that person.
- 4 (9) "Employer integrated wage access services" means the
 5 business by a provider of delivering to a consumer access to
 6 earned but unpaid income on the basis of:
 7 (A) employment;
 8 (B) income; or
 9 (C) attendance;
 10 data obtained directly or indirectly from an employer.
- 11 (10) "Federally insured depository financial institution" means:
 12 (A) a bank;
 13 (B) a credit union;
 14 (C) a savings and loan association;
 15 (D) a trust company;
 16 (E) a corporate fiduciary;
 17 (F) a savings association;
 18 (G) a savings bank;
 19 (H) an industrial bank; or
 20 (I) an industrial loan company;
 21 that is organized under the law of the United States or any state
 22 of the United States and that has federally or privately insured
 23 deposits as permitted by state or federal law.
- 24 (11) "Fee" includes the following, however denominated:
 25 (A) An amount charged by a provider for:
 26 (i) expedited delivery; or
 27 (ii) other delivery;
 28 of proceeds to a consumer.
 29 (B) A subscription or membership fee imposed by a
 30 provider for a bona fide group of services that include
 31 earned wage access services.
 32 (C) An amount that:
 33 (i) is paid by an employer to a provider on a
 34 consumer's behalf; and
 35 (ii) entitles the consumer to receive proceeds at
 36 reduced or no cost to the consumer.
- 37 The term does not include a voluntary tip, gratuity, or donation
 38 paid to a provider.
- 39 (12) "Individual" means a natural person.
- 40 (13) "Key individual" means an individual ultimately responsible
 41 for establishing or directing policies and procedures of a
 42 licensee, such as an executive officer, manager, director, or

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- 1 trustee.
- 2 (14) "Licensee" means a person licensed under this chapter.
- 3 (15) "NMLSR" means the Nationwide Multistate Licensing
- 4 System and Registry:
- 5 (A) developed by the Conference of State Bank Supervisors
- 6 and the American Association of Residential Mortgage
- 7 Regulators; and
- 8 (B) owned and operated by the State Regulatory Registry,
- 9 LLC, or by any successor or affiliated entity;
- 10 for the licensing and registry of persons in financial services
- 11 industries.
- 12 (16) "Outstanding proceeds" means proceeds that:
- 13 (A) have been paid to a consumer by a provider; and
- 14 (B) have not yet been repaid to the provider.
- 15 (17) "Passive investor" means a person that:
- 16 (A) does not have the power to elect a majority of key
- 17 individuals or executive officers, managers, directors,
- 18 trustees, or other persons exercising managerial authority
- 19 over a person in control of a licensee;
- 20 (B) is not employed by and does not have any managerial
- 21 duties with respect to the licensee or a person in control of
- 22 the licensee;
- 23 (C) does not have the power to exercise, directly or
- 24 indirectly, a controlling influence over the management or
- 25 policies of the licensee or a person in control of the
- 26 licensee; and
- 27 (D) either:
- 28 (i) attests to as facts the characteristics of passivity set
- 29 forth in clauses (A) through (C), in a form and by a
- 30 medium prescribed by the director; or
- 31 (ii) commits to the characteristics of passivity set forth
- 32 in clauses (A) through (C) in a written document.
- 33 (18) "Person" means any individual, general partnership, limited
- 34 partnership, limited liability company, corporation, trust,
- 35 association, joint stock corporation, or other corporate entity, as
- 36 so identified by the director.
- 37 (19) "Proceeds" means a payment that:
- 38 (A) is made to a consumer by a provider; and
- 39 (B) is based on earned but unpaid income.
- 40 (20) "Provider" means a person in the business of offering and
- 41 providing earned wage access services to consumers. The term
- 42 does not include the following:

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1 (A) A service provider that is not contractually obligated to
2 fund proceeds delivered as part of the earned wage access
3 services, such as a payroll service provider that verifies a
4 consumer's available earnings.

5 (B) An employer that offers a portion of salary, wages,
6 compensation, or other income directly to its employees or
7 independent contractors before the normally scheduled pay
8 date.

9 (C) An entity that offers or provides earned wage access
10 services and reports a consumer's payment or nonpayment
11 of either outstanding proceeds of the earned wage access
12 services or fees, voluntary tips, gratuities, or other donations
13 in connection with the earned wage access services to a
14 consumer reporting agency (as defined in the Federal Fair
15 Credit Reporting Act (15 U.S.C. 1681 et seq.)).

16 (21) "Small loan" has the meaning set forth in ~~IC 24-4.5-7-104.~~
17 ~~>~~ **IC 37-3-2-10.**

18 SECTION 65. IC 28-8-6-503, AS ADDED BY P.L.222-2025,
19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2026]: Sec. 503. (a) The department shall receive and act on
21 all applications for licenses to offer or provide earned wage access
22 services. Applications must be made as prescribed by the director. If,
23 at any time, the information or record contained in:

- 24 (1) an application filed under this section; or
25 (2) a renewal application filed under section 506 of this chapter;
26 is or becomes inaccurate or incomplete in a material respect, the
27 applicant shall promptly file a correcting amendment with the
28 department.

29 (b) A license may not be issued unless the department finds that
30 the professional training and experience, financial responsibility,
31 character, and fitness of:

- 32 (1) the applicant;
33 (2) each executive officer, director, or manager of the applicant,
34 or any other individual having a similar status or performing a
35 similar function for the applicant; and
36 (3) if known, each person directly or indirectly owning of record
37 or owning beneficially at least ten percent (10%) of the
38 outstanding shares of any class of equity security of the
39 applicant;

40 are such as to warrant belief that the business will be operated honestly
41 and fairly.

42 (c) The director is entitled to request evidence of compliance with

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1 this section at:
2 (1) the time of application;
3 (2) the time of renewal of a license; or
4 (3) any other time considered necessary by the director.
5 (d) Evidence of compliance with this section must include:
6 (1) criminal background checks, as described in section 504 of
7 this chapter, including a national criminal history background
8 check (as defined in IC 10-13-3-12) by the Federal Bureau of
9 Investigation, for any individual described in subsection (b);
10 (2) credit histories as described in section 504 of this chapter;
11 (3) surety bond requirements as described in section 505 of this
12 chapter;
13 (4) a review of licensure actions in Indiana and in other states;
14 and
15 (5) other background checks considered necessary by the
16 director.
17 (e) For purposes of this section and in order to reduce the points
18 of contact that the director has to maintain under this section, the
19 director may use the NMLSR as a channeling agent for requesting and
20 distributing information to and from any source as directed by the
21 director.
22 (f) The department may deny an application under this section if
23 the director of the department determines that the application was
24 submitted for the benefit of, or on behalf of, a person who does not
25 qualify for a license.
26 (g) Upon written request, an applicant is entitled to a hearing, in
27 the manner provided in IC 4-21.5, on the question of the qualifications
28 of the applicant for a license.
29 (h) An applicant shall pay the following fees at the time designated
30 by the department:
31 (1) An initial license fee as established by the department under
32 IC 28-11-3-5, which shall not exceed two thousand five hundred
33 dollars (\$2,500). Until the department establishes an initial
34 license fee under IC 28-11-3-5, the initial license fee shall be one
35 thousand five hundred dollars (\$1,500).
36 (2) Examination fees as established by the department under
37 IC 28-11-3-5, which shall not exceed one hundred dollars (\$100)
38 per hour. Until the department establishes an examination fee
39 schedule under IC 28-11-3-5 that is applicable to an applicant
40 under this chapter, the examination fee schedule shall be the fee
41 schedule applicable to persons licensed under ~~IC 24-4.5-7.~~ [\[](#)
42 [IC 37-3.](#)

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- 1 (3) An annual renewal fee as established by the department
- 2 under IC 28-11-3-5, which shall not exceed two thousand five
- 3 hundred dollars (\$2,500). Until the department establishes an
- 4 annual renewal fee under IC 28-11-3-5, the annual renewal fee
- 5 shall be one thousand five hundred dollars (\$1,500).
- 6 (i) A fee as established by the department under IC 28-11-3-5 may
- 7 be charged for each day a fee under subsection (h)(2) or (h)(3) is
- 8 delinquent. The fee described in this subsection shall not exceed fifty
- 9 dollars (\$50) per day.
- 10 (j) Except in a transaction approved under section 601 of this
- 11 chapter, a license issued under this section is not assignable or
- 12 transferable.
- 13 (k) If the department of state revenue notifies the department that
- 14 a person is on the most recent tax warrant list, the department shall not
- 15 issue or renew the person's license until:
- 16 (1) the person provides to the department a statement from the
- 17 department of state revenue that the person's tax warrant has
- 18 been satisfied; or
- 19 (2) the department receives a notice from the commissioner of
- 20 the department of state revenue under IC 6-8.1-8-2(k).
- 21 SECTION 66. IC 28-8-6-801, AS ADDED BY P.L.222-2025,
- 22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2026]: Sec. 801. A provider required to be licensed under this
- 24 chapter shall do the following:
- 25 (1) Develop and implement policies and procedures to:
- 26 (A) respond to questions raised by consumers; and
- 27 (B) address complaints from consumers;
- 28 in an expedient manner.
- 29 (2) Whenever the provider offers a consumer the option to
- 30 receive proceeds for a fee or solicits a tip, gratuity, or other
- 31 donation:
- 32 (A) offer that consumer at least one (1) reasonable option to
- 33 obtain proceeds at no cost;
- 34 (B) clearly explain to the consumer how to elect each no
- 35 cost option offered;
- 36 (C) ensure that any no cost option offered is clearly
- 37 displayed and is in the same:
- 38 (i) color;
- 39 (ii) font;
- 40 (iii) font size; and
- 41 (iv) general location;
- 42 as any option to obtain proceeds that has a fee associated

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- 1 with it;
- 2 (D) ensure that any option to obtain proceeds that has a fee
- 3 associated with the delivery of the proceeds is not the
- 4 default option;
- 5 (E) ensure that if a consumer elects to not pay a tip, gratuity,
- 6 or other donation, any fee amount charged to the consumer
- 7 as part of an earned wage access services transaction is not
- 8 increased because of the consumer's decision to not pay a
- 9 tip, gratuity, or other donation; and
- 10 (F) ensure that, if a consumer elects a no cost option,
- 11 initiate the delivery of the proceeds to the consumer not
- 12 later than one (1) business day after the consumer initiates
- 13 an earned wage access services transaction with the
- 14 provider.
- 15 (3) Before entering into an agreement with a consumer to
- 16 provide earned wage access services, do both of the following:
- 17 (A) Inform the consumer of the consumer's rights under the
- 18 agreement.
- 19 (B) Fully and clearly disclose all fees associated with the
- 20 earned wage access services to be provided.
- 21 (4) Inform the consumer of the fact of or obtain the consent of
- 22 the consumer to any material changes to the terms and
- 23 conditions of the earned wage access services before
- 24 implementing those changes for that consumer.
- 25 (5) Allow the consumer to cancel use of the provider's earned
- 26 wage access services:
- 27 (A) at any time; and
- 28 (B) without incurring a cancellation fee imposed by the
- 29 provider.
- 30 (6) Comply with all applicable local, state, and federal privacy
- 31 and information security laws.
- 32 (7) If the provider solicits, charges, or receives a tip, gratuity, or
- 33 other donation from a consumer:
- 34 (A) clearly and conspicuously disclose to the consumer
- 35 immediately before each transaction that a tip, gratuity, or
- 36 other donation:
- 37 (i) is voluntary; and
- 38 (ii) may be in the amount of zero dollars (\$0); and
- 39 (B) clearly and conspicuously disclose in the provider's
- 40 service contract with the consumer that tips, gratuities, or
- 41 other donations are voluntary and that the offering of earned
- 42 wage access services, including:

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- 1 (i) the amount of proceeds that a consumer is eligible
- 2 to request;
- 3 (ii) the frequency with which proceeds are provided to
- 4 a consumer; and
- 5 (iii) the level or cost of any service provided to the
- 6 consumer in connection with an earned wage access
- 7 services transaction;
- 8 is not contingent on whether the consumer pays any tip,
- 9 gratuity, or other donation, or on the amount of the tip,
- 10 gratuity, or other donation.
- 11 (8) Provide proceeds to a consumer by any means mutually
- 12 agreed upon by the provider and the consumer.
- 13 (9) If the provider seeks repayment of outstanding proceeds or
- 14 the payment of fees or other amounts owed (including voluntary
- 15 tips, gratuities, or other donations) in connection with earned
- 16 wage access services provided under this chapter from a
- 17 consumer's deposit account, including by means of electronic
- 18 funds transfer, the provider must do the following:
- 19 (A) Comply with applicable provisions of the federal
- 20 Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.).
- 21 (B) Reimburse the consumer for the full amount of any
- 22 overdraft or nonsufficient funds fees that are imposed on the
- 23 consumer by the consumer's depository financial institution
- 24 if the overdraft or nonsufficient funds fees resulted from the
- 25 provider's attempt to seek payment of any outstanding
- 26 proceeds, fees, or other amounts (including voluntary tips,
- 27 gratuities, or other donations) under this chapter:
- 28 (i) on a date before; or
- 29 (ii) in an incorrect amount from;
- 30 the date or amount disclosed to the consumer. However, a
- 31 provider is not subject to the requirements of this clause
- 32 with respect to the payment of any outstanding proceeds,
- 33 fees, or other amounts incurred by a consumer through
- 34 fraudulent or other unlawful means.
- 35 (10) Ensure that the provider's software application does not do
- 36 any of the following:
- 37 (A) Subject a user of the software application to unsolicited
- 38 electronic mail advertisements or surveys, if the user has
- 39 elected to not receive electronic mail advertisements or
- 40 surveys, as required by 15 U.S.C. 7701-7713.
- 41 (B) Subject a user of the software application to unsolicited
- 42 electronic advertisements or surveys, based on the

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- 1 individual user's:
- 2 (i) use of the provider's software application;
- 3 (ii) location; or
- 4 (iii) behavior;
- 5 if the user has elected to not receive the electronic
- 6 advertisements or surveys.
- 7 (C) Display an unsolicited electronic notification to a user
- 8 of the software application unless the user has elected to
- 9 receive electronic notifications.
- 10 (D) Access a user's location, except for purposes of
- 11 verifying that a user is located in Indiana at the time the
- 12 user creates an account with the provider, unless the user
- 13 has authorized the provider's software application to access
- 14 the user's location.
- 15 (11) Ensure that any data that the provider receives under
- 16 subdivision (10) is not sold or shared, except as follows:
- 17 (A) In connection with a law enforcement investigation or
- 18 legal proceeding.
- 19 (B) As necessary to provide earned wage access services to
- 20 the user.
- 21 (C) The user authorizes the provider to sell or share the
- 22 data.
- 23 (12) Sell consumer data to a lender (as defined in
- 24 ~~IC 24-4.5-7-111~~) \leftrightarrow **IC 37-3-2-5** licensed under ~~IC 24-4.5-7-~~
- 25 **IC 37-3.**
- 26 (13) Share consumer data with a lender (as defined in
- 27 ~~IC 24-4.5-7-111~~) \leftrightarrow **IC 37-3-2-5** licensed under ~~IC 24-4.5-7-~~
- 28 **IC 37-3.**
- 29 SECTION 67. IC 28-8-6-802, AS ADDED BY P.L.222-2025,
- 30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 31 JULY 1, 2026]: Sec. 802. A provider required to be licensed under this
- 32 chapter shall not do any of the following:
- 33 (1) Share with an employer a portion of any:
- 34 (A) fees; or
- 35 (B) voluntary tips, gratuities, or other donations;
- 36 received from or charged to a consumer for earned wage access
- 37 services.
- 38 (2) Use a consumer's credit score from a consumer report (as
- 39 defined in IC 24-5-24-2) to determine:
- 40 (A) a consumer's eligibility for earned wage access services;
- 41 (B) the amount of proceeds that a consumer is eligible to
- 42 request or receive in an earned wage access services

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- 1 transaction; or
- 2 (C) the frequency with which proceeds may be provided to
- 3 a consumer through earned wage access services
- 4 transactions.
- 5 (3) Accept payment of outstanding proceeds, fees, or voluntary
- 6 tips, gratuities, or other donations by means of a credit card (as
- 7 defined in IC 24-5-27.5-3).
- 8 (4) Charge or collect a late fee, a deferral fee, interest, or any
- 9 other charge or penalty for a consumer's failure to pay
- 10 outstanding proceeds, fees, or voluntary tips, gratuities, or other
- 11 donations.
- 12 (5) Compel or attempt to compel a consumer to pay to the
- 13 provider any outstanding proceeds, fees, or voluntary tips,
- 14 gratuities, or other donations through any of the following
- 15 means:
- 16 (A) The use of unsolicited outbound telephone calls to the
- 17 consumer.
- 18 (B) A suit against the consumer in a court of competent
- 19 jurisdiction.
- 20 (C) The use of a third party to pursue collection from the
- 21 consumer on the provider's behalf.
- 22 (D) The sale of outstanding amounts to a third party
- 23 collector or debt buyer for collection from the consumer.
- 24 However, this subdivision does not preclude a provider from
- 25 using any of the means set forth in clauses (A) through (D) to
- 26 pursue payment of outstanding amounts incurred by a consumer
- 27 through fraudulent or other unlawful means, or from pursuing
- 28 any available remedies against an employer for breach of the
- 29 employer's contractual obligations to the provider.
- 30 (6) If the provider solicits, charges, or receives a tip, gratuity, or
- 31 other donation from a consumer:
- 32 (A) mislead or deceive consumers about the voluntary
- 33 nature of the tips, gratuities, or donations;
- 34 (B) represent that tips, gratuities, or donations will benefit
- 35 any specific individuals; or
- 36 (C) suggest a default tip, gratuity, or other donation amount
- 37 greater than zero dollars (\$0).
- 38 (7) If the provider also offers small loans to consumers under
- 39 ~~IC 24-4.5-7~~; ~~IC 37-3~~:
- 40 (A) provide proceeds to a consumer who has a small loan
- 41 outstanding from that provider, as verified by the provider
- 42 in accordance with ~~IC 24-4.5-7-404(4)~~; ~~IC 37-3~~

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- 1 **IC 37-3-3-8(d)**; or
 2 (B) make a small loan to a consumer who has outstanding
 3 proceeds from that provider.
- 4 SECTION 68. IC 28-11-1-3, AS AMENDED BY P.L.222-2025,
 5 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2026]: Sec. 3. (a) The ultimate authority for and the powers,
 7 duties, management, and control of the department are vested in the
 8 following seven (7) members:
- 9 (1) The director of the department, who serves as an ex officio,
 10 voting member.
- 11 (2) The following six (6) members appointed by the governor as
 12 follows:
- 13 (A) Three (3) members must have practical experience at
 14 the executive level of a:
- 15 (i) state chartered bank;
 16 (ii) state chartered savings association; or
 17 (iii) state chartered savings bank.
- 18 (B) One (1) member must have practical experience at the
 19 executive level as a:
- 20 (i) lender licensed under ~~IC 24-4.5;~~ **IC 37-2**;
 21 (ii) mortgage lender licensed under ~~IC 24-4.4;~~ **IC 37-1**;
 22 **IC 37-1**;
 23 (iii) registrant under IC 24-7;
 24 (iv) licensee under IC 28-1-29;
 25 (v) licensee under IC 28-7-5;
 26 (vi) licensee under IC 28-8-4.1;
 27 (vii) licensee under IC 28-8-5; or
 28 (viii) licensee under IC 28-8-6.
- 29 (C) One (1) member must have practical experience at the
 30 executive level of a state chartered credit union.
- 31 (D) One (1) member must be appointed with due regard for
 32 the consumer, agricultural, industrial, and commercial
 33 interests of Indiana.
- 34 (b) Not more than three (3) members appointed by the governor
 35 under subsection (a)(2) after June 30, 2006, may be affiliated with the
 36 same political party.
- 37 SECTION 69. IC 28-11-1-13.5, AS ADDED BY P.L.90-2008,
 38 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 13.5. (a) The department may accept payment of
 40 any of the following by credit card, debit card, charge card, or similar
 41 method:
- 42 (1) A fee established by the department under IC 28-11-3-5.

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- 1 (2) A penalty assessed by the department under this title or
 2 ~~IC 24-4.5-3~~ **IC 37-2.**
- 3 (3) A fee assessed:
- 4 (A) in connection with the director's designation of an
 5 automated central licensing system and repository under
 6 ~~IC 24-4.5-3-503(10)~~; **IC 37-2-4-26(j)**; and
- 7 (B) for:
- 8 (i) processing applications and renewals for licenses
 9 under ~~IC 24-4.5-3~~; **IC 37-2-4**; or
- 10 (ii) performing other services that the director
 11 determines are necessary for the orderly administration
 12 of the department's licensing system under
 13 ~~IC 24-4.5-3~~; **IC 37-2-4.**
- 14 (b) If a fee or penalty described in subsection (a) is paid by credit
 15 card, debit card, charge card, or similar method, the liability is not
 16 finally discharged until the department receives payment or credit from
 17 the institution responsible for making the payment or credit.
- 18 (c) The department may contract with a bank or credit card vendor
 19 for acceptance of bank or credit cards. If there is a vendor transaction
 20 charge or discount fee, whether billed to the department or charged
 21 directly to the department's account, the department or the bank or
 22 credit card vendor may collect from the person using the bank or credit
 23 card a uniform fee that is determined by the department.
- 24 SECTION 70. IC 28-15-11-18, AS AMENDED BY P.L.27-2012,
 25 SECTION 116, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2026]: Sec. 18. (a) Subsections (b) and (c)
 27 apply to alternative mortgage loans and to similar loans authorized
 28 under federal law or regulations for a federal savings association.
- 29 (b) Any Indiana laws prohibiting:
- 30 (1) the compounding of interest;
- 31 (2) capitalizing interest because contracted loan repayments
 32 create negative amortization; or
- 33 (3) paying interest on interest;
- 34 do not apply. For purposes of the application of ~~IC 24-4.5-3~~ **IC 37-2-4** to a loan described in subsection (a), "principal" (as
 35 defined in ~~IC 24-4.5-3-107(3)~~ **IC 37-2-2-40.5**) includes interest
 36 unpaid and added to principal because the contracted repayments under
 37 the loan do not cover the entire interest due at any time.
- 38 (c) The lien of the loan provided by the mortgage and the loan
 39 documents:
- 40 (1) includes all advances or additions to principal of either
 41 principal or interest that are made in accordance with the terms
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- 1 of the loan documents; and
- 2 (2) is superior to any lien on the property created after the date
- 3 the mortgage securing the loan is recorded, other than taxes and
- 4 special property or taxing district assessments.
- 5 SECTION 71. IC 30-4-8-2, AS ADDED BY P.L.221-2019,
- 6 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2026]: Sec. 2. Unless the context requires otherwise, the
- 8 following definitions apply throughout this chapter:
- 9 (1) "Claim" means a right to payment, regardless of whether the
- 10 right is reduced to judgment, liquidated, unliquidated, fixed,
- 11 contingent, matured, immature, disputed, undisputed, legal,
- 12 equitable, secured, or unsecured.
- 13 (2) "Creditor" means a person who has a claim against the
- 14 transferor.
- 15 (3) "Debt" means liability on a claim.
- 16 (4) "Disposition" means a transfer, conveyance, or assignment of
- 17 property, including a change in the legal ownership of property
- 18 that occurs when a trustee is substituted for another trustee or
- 19 when at least one (1) trustee is added. The term also includes the
- 20 exercise of a power that causes a transfer of property to a trustee.
- 21 However, the term does not include the release or relinquishment
- 22 of an interest in property that, until the release or relinquishment,
- 23 was the subject of a qualified disposition.
- 24 (5) "Investment decision" means the retention, purchase, sale,
- 25 exchange, tender, or other transaction affecting the ownership of
- 26 or rights in an investment.
- 27 (6) "Legacy trust" means an irrevocable trust established under
- 28 section 3 of this chapter.
- 29 (7) "Lender" means a company or entity that extends credit,
- 30 including but not limited to a financial institution (as defined by
- 31 IC 28-1-1-3(1)), a company or entity that extends credit under
- 32 ~~IC 24-4-4 or IC 24-4-5,~~ <-> IC 37-1 or IC 37-2, or the
- 33 successors and assigns of the company or entity.
- 34 (8) "Person" means an individual at least eighteen (18) years of
- 35 age, a corporation, a trust, a limited liability company, a limited
- 36 liability partnership, a partnership, a governmental entity, the
- 37 state, or a political subdivision of the state.
- 38 (9) "Property" means real property, personal property, or an
- 39 interest in real or personal property.
- 40 (10) "Qualified affidavit" means a sworn affidavit executed
- 41 under section 5 of this chapter.
- 42 (11) "Qualified disposition" means a disposition by a transferor

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1 to a legacy trust.
 2 (12) "Qualified trustee" means a person qualified to serve as the
 3 trustee of a legacy trust under section 6 of this chapter.
 4 (13) "Transferor" means a person who as:
 5 (A) an owner of property;
 6 (B) a holder of a power of appointment that authorizes the
 7 holder to appoint in favor of the holder, the holder's
 8 creditors, the holder's estate, or the creditors of the holder's
 9 estate; or
 10 (C) a trustee;
 11 directly or indirectly makes a disposition or causes a disposition
 12 to be made.
 13 (14) "Trust director" means a person given authority by the terms
 14 of a legacy trust to direct, consent to, or disapprove actual or
 15 proposed investment decisions, distribution decisions, or other
 16 decisions related to property in a legacy trust.
 17 SECTION 72. IC 31-16-15-25, AS AMENDED BY P.L.103-2007,
 18 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2026]: Sec. 25. (a) An income payor that:
 20 (1) discharges from employment an obligor;
 21 (2) refuses to employ an obligor;
 22 (3) takes disciplinary action against an obligor employed by the
 23 income payor; or
 24 (4) otherwise discriminates against an obligor;
 25 because of the existence of an income withholding order or the
 26 obligations imposed upon the income payor by the income withholding
 27 order, is subject to a penalty not to exceed five thousand dollars
 28 (\$5,000) payable to the state and recoverable in a civil action. An
 29 obligor or the Title IV-D agency may bring an action to enforce a
 30 penalty under this subsection.
 31 (b) The collection of money under this section does not affect:
 32 (1) the obligor's right to damages under ~~IC 24-4.5-5-202;~~ [IC 37-2-6-9](#); or
 33 [IC 37-2-6-9](#); or
 34 (2) any other legal remedy available to the obligor;
 35 because of discharge from employment, refusal of employment, or
 36 disciplinary action.
 37 SECTION 73. IC 32-28-15-1, AS ADDED BY P.L.62-2024,
 38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2026]: Sec. 1. (a) Except as otherwise provided in this
 40 chapter, this chapter does not apply to a residential real estate service
 41 agreement entered into before March 15, 2024.
 42 (b) This chapter does not apply to any of the following:

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- 1 (1) A home warranty or similar product that covers the cost of
 2 maintenance of a major home system, such as:
 3 (A) a plumbing system;
 4 (B) a heating, cooling, and ventilation system; or
 5 (C) electrical wiring;
 6 for a fixed period.
 7 (2) An insurance contract.
 8 (3) An option to purchase residential real estate or a right of
 9 refusal to purchase residential real estate.
 10 (4) A declaration that is created in the formation of:
 11 (A) an association of co-owners (as defined in
 12 IC 32-25-2-2) for a condominium (as defined in
 13 IC 32-25-2-7); or
 14 (B) a homeowners association (as defined in
 15 IC 32-25.5-2-4);
 16 including any amendment to the declaration.
 17 (5) A maintenance or repair agreement entered into by:
 18 (A) an association of co-owners (as defined in
 19 IC 32-25-2-2) for a condominium (as defined in
 20 IC 32-25-2-7); or
 21 (B) a homeowners association (as defined in
 22 IC 32-25.5-2-4).
 23 (6) A mortgage loan or a commitment to make or receive a
 24 mortgage loan.
 25 (7) A security agreement under IC 26-1 concerning the sale or
 26 rental of personal property or fixtures.
 27 (8) Providers of:
 28 (A) utility services, including water, sewer, gas, or electric
 29 service; or
 30 (B) communications service (as defined in IC 8-1-32.5-3).
 31 (9) A land contract (as defined in ~~IC 24-9-2-9.5~~ **IC 37-5-2-9.5**).
 32
 33 (10) An attorney's lien authorized by IC 33-43-4.
 34 (11) A statutory lien authorized by this article, including:
 35 (A) the lien of a broker company (as defined in
 36 IC 32-28-12.5-0.5) upon commercial real estate under
 37 IC 32-28-12.5-5; or
 38 (B) a mechanic's or materialman's lien under IC 32-28-3.
 39 SECTION 74. IC 32-30-10.5-5, AS AMENDED BY P.L.6-2012,
 40 SECTION 211, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2026]: Sec. 5. (a) As used in this chapter,
 42 "mortgage" means:

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1 (1) a loan; or
 2 (2) a consumer credit sale;
 3 that is or will be used by the debtor primarily for personal, family, or
 4 household purposes and that is secured by a mortgage (or another
 5 equivalent consensual security interest) that constitutes a first lien on
 6 a dwelling or on residential real estate upon which a dwelling is
 7 constructed or intended to be constructed.

8 (b) The term does not include a land contract (as defined in
 9 ~~IC 24-4.4-1-301(36)) IC 37-1-2-21~~ or similar agreement in which the
 10 debtor does not possess a deed.

11 SECTION 75. IC 34-7-4-2, AS AMENDED BY THE
 12 TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL
 13 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2026]: Sec. 2. Statutes outside IC 34 providing causes of
 15 action or procedures include the following:

16 (1) IC 4-21.5-5 (Judicial review of administrative agency
 17 actions).

18 (2) IC 22-3-4 (Worker's compensation administration and
 19 procedures).

20 (3) IC 22-4-17 (Unemployment compensation system,
 21 employee's claims for benefits).

22 (4) IC 22-4-32 (Unemployment compensation system,
 23 employer's appeal process).

24 (5) IC 22-9 (Civil rights actions).

25 **(6) IC 22-9.5 (Fair housing).**

26 ~~(6) IC 24-9~~ (7) **IC 37-5** (Home loans).

27 ~~(7) (8)~~ ~~IC 31-14~~ (Paternity).

28 ~~(8) (9)~~ ~~IC 31-15~~ (Dissolution of marriage and legal
 29 separation).

30 ~~(9) (10)~~ ~~IC 31-16~~ (Support of children and other
 31 dependents).

32 ~~(10) (11)~~ ~~IC 31-17~~ (Custody and parenting time).

33 ~~(11) (12)~~ ~~IC 31-19~~ (Adoption).

34 ~~(12) (13)~~ ~~IC 32-27-2, IC 32-30-1, IC 32-30-2, IC 32-30-4,~~
 35 ~~IC 32-30-9, IC 32-30-10, IC 32-30-12, IC 32-30-13, and~~
 36 ~~IC 32-30-14~~ (Real property).

37 ~~(13) (14)~~ ~~IC 33-43-4~~ (Attorney liens).

38 SECTION 76. IC 34-30-2.1-354 IS REPEALED [EFFECTIVE
 39 JULY 1, 2026]. Sec. 354. ~~IC 24-4.4-3-103 (Concerning actions in~~
 40 ~~conformity with a rule, written notice, written opinion, written~~
 41 ~~interpretation, or written directive of the department of financial~~
 42 ~~institutions under first lien mortgage lending law).~~

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1 SECTION 77. IC 34-30-2.1-355 IS REPEALED [EFFECTIVE
2 JULY 1, 2026]. ~~Sec. 355. IC 24-4.5-6-104 (Concerning actions in~~
3 ~~conformity with a rule, written notice, written opinion, written~~
4 ~~interpretation, or written directive of the department of financial~~
5 ~~institutions under the Uniform Consumer Credit Code).~~

6 SECTION 78. IC 34-30-2.1-604 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2026]: **Sec. 604. IC 37-1-4-2 (Concerning**
9 **actions in conformity with a rule, written notice, written opinion,**
10 **written interpretation, or written directive of the department of**
11 **financial institutions under first lien mortgage lending law).**

12 SECTION 79. IC 34-30-2.1-605 IS ADDED TO THE INDIANA
13 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
14 [EFFECTIVE JULY 1, 2026]: **Sec. 605. IC 37-2-7-3 (Concerning**
15 **actions in conformity with a rule, written notice, written opinion,**
16 **written interpretation, or written directive of the department of**
17 **financial institutions under the Uniform Consumer Credit Code).**

18 SECTION 80. IC 34-31-2-6 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2026]: ~~Sec. 6. IC 24-4.5-5-203 <>~~
20 **IC 37-2-6-10** (Concerning creditors for errors made under the
21 Uniform Consumer Credit code).

22 SECTION 81. IC 34-55-8-7, AS AMENDED BY P.L.78-2014,
23 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2026]: Sec. 7. (a) Except as provided in subsection (b), after
25 a hearing of which the judgment debtor has been notified, the court
26 may order:

27 (1) any property, income, or profits of the judgment debtor not
28 exempt from execution or process, in the hands either of the
29 judgment debtor or of any other person; or

30 (2) any debt due to the judgment debtor;

31 to be applied to the satisfaction of the judgment and forbid transfers of
32 property and choses in action.

33 (b) If the judgment debtor has failed to comply with an agreed
34 order in the action, after a hearing of which the judgment debtor has
35 been notified, the court shall order:

36 (1) any property, income, or profits of the judgment debtor not
37 exempt from execution or process, in the hands either of the
38 judgment debtor or of any other person; or

39 (2) any debt due to the judgment debtor;

40 to be applied to the satisfaction of the judgment and forbid transfers of
41 property and choses in action.

42 (c) The judge shall order that:

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- 1 (1) the judgment or execution is a continuing lien upon the
 2 income or profits of the judgment debtor in the hands either of
 3 the judgment debtor or any other person, governmental officer,
 4 or corporation from the date the order is served upon the person,
 5 governmental officer, or corporation indebted to the judgment
 6 debtor to the extent that the lien, together with all similar liens,
 7 is permitted under ~~IC 24-4.5-5-105~~; ~~IC 37-2-6-4~~; and
 8 (2) the court may enforce all orders and decrees in the premises,
 9 by attachment or otherwise.
- 10 (d) A court in an action for proceedings supplementary to
 11 execution shall issue an order directing a depository financial
 12 institution (as defined in IC 28-9-2) to place a hold on a deposit
 13 account in which the judgment debtor has an interest, either
 14 individually or jointly with another person, whenever the conditions
 15 prescribed under IC 28-9-3-4(d)(1) through IC 28-9-3-4(d)(3) are met.
 16 An order issued under this subsection:
- 17 (1) is subject to the limitations as to duration of the restriction
 18 and the amount to be restricted as specified under IC 28-9-4-2;
 19 and
 20 (2) may be terminated or modified to reflect valid exemptions of
 21 a depositor that the court has considered.
- 22 (e) If an order for the placing of a hold on a deposit account is
 23 issued under subsection (d), a person whose deposit account is affected
 24 may request a hearing from the court on the matter of:
- 25 (1) the person's right to claim certain funds in the person's
 26 deposit account as exempt from garnishment; and
 27 (2) whether the hold should be removed by the court.
- 28 (f) If a court receives a request for a hearing under subsection (e),
 29 the court shall hold a hearing on the matter within five (5) days
 30 (excluding Saturdays, Sundays, and legal holidays) after the court
 31 receives the request.
- 32 (g) If a person whose deposit account is affected by the order
 33 issued under subsection (d) files an affidavit with the court stating that
 34 the funds in the account are exempt from garnishment, the court may
 35 issue an order releasing the hold on the account without first
 36 conducting a hearing.
- 37 (h) If a court has issued a garnishment order to a third party and
 38 the garnishment order no longer applies to the third party due to a
 39 change in circumstances, the court may cancel the garnishment order
 40 and issue a new garnishment order to an appropriate third party, if all
 41 of the following conditions are met:
- 42 (1) The court has issued a garnishment order under subsection

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- 1 (a) or (b) with respect to a judgment debtor's income or profits
- 2 in the hands of a third party.
- 3 (2) The judgment constitutes a continuing lien under subsection
- 4 (c).
- 5 (3) Due to a change in circumstances, including a change of
- 6 employment, the judgment debtor's income or profits are in the
- 7 hands of a new third party not named in the garnishment order.
- 8 (4) The judgment creditor files a petition:
- 9 (A) notifying the court of the matters described in
- 10 subdivisions (1) through (3); and
- 11 (B) informing the court of the name, address, and other
- 12 relevant information concerning the new third party holding
- 13 the judgment debtor's income and profits.

14 A court may issue a new garnishment order under this subsection
 15 without holding a hearing.

16 SECTION 82. IC 34-57-2-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. (a) A written
 18 agreement to submit to arbitration is valid, and enforceable, an existing
 19 controversy or a controversy thereafter arising is valid and enforceable,
 20 except upon such grounds as exist at law or in equity for the revocation
 21 of any contract. If the parties to such an agreement stipulate in writing,
 22 the agreement may be enforced by designated third persons, who shall
 23 in such instances have the same rights as a party under this chapter.
 24 This chapter also applies to arbitration agreement between employers
 25 and employees or between their respective representatives (unless
 26 otherwise provided in the agreement).

27 (b) This chapter specifically exempts from its coverage all
 28 consumer leases, sales, and loan contracts, as these terms are defined
 29 in the Uniform Consumer Credit Code (~~IC 24-4.5~~): **(IC 37-2)**.

30 SECTION 83. IC 35-38-1-18, AS AMENDED BY P.L.156-2007,
 31 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2026]: Sec. 18. (a) Except as provided in subsection (b),
 33 whenever the court imposes a fine, it shall conduct a hearing to
 34 determine whether the convicted person is indigent. If the person is not
 35 indigent, the court shall order:

- 36 (1) that the person pay the entire amount at the time sentence is
- 37 pronounced;
- 38 (2) that the person pay the entire amount at some later date;
- 39 (3) that the person pay specified parts at designated intervals; or
- 40 (4) at the request of the person, commitment of the person to the
- 41 county jail for a period of time set by the court in lieu of a fine.
- 42 If the court orders a person committed to jail under this

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1 subdivision, the person's total confinement for the crime that
2 resulted in the conviction must not exceed the maximum term of
3 imprisonment prescribed for the crime under IC 35-50-2 or
4 IC 35-50-3.

5 (b) A court may impose a fine and suspend payment of all or part
6 of the fine until the convicted person has completed all or part of the
7 sentence. If the court suspends payment of the fine, the court shall
8 conduct a hearing at the time the fine is due to determine whether the
9 convicted person is indigent. If the convicted person is not indigent, the
10 court shall order the convicted person to pay the fine:

- 11 (1) at the time the fine is due; or
- 12 (2) in a manner set forth in subsection (a)(2) through (a)(4).

13 (c) If a court suspends payment of a fine under subsection (b), the
14 court retains jurisdiction over the convicted person until the convicted
15 person has paid the entire amount of the fine.

16 (d) Upon any default in the payment of the fine:

- 17 (1) an attorney representing the county may bring an action on
18 a debt for the unpaid amount;
- 19 (2) the court may direct that the person, if the person is not
20 indigent, be committed to the county jail and credited toward
21 payment at the rate of twenty dollars (\$20) for each twenty-four
22 (24) hour period the person is confined, until the amount paid
23 plus the amount credited equals the entire amount due; or
- 24 (3) the court may institute contempt proceedings or order the
25 convicted person's wages, salary, and other income garnished in
26 accordance with ~~IC 24-4.5-5-105~~ [IC 37-2-6-4](#) to enforce
27 the court's order for payment of the fine.

28 SECTION 84. IC 35-45-7-1 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 1. As used in this
30 chapter:

31 "Loan" means any transaction described in section 3 of this
32 chapter, whether or not the transaction is in the form of a loan as
33 defined in ~~IC 24-4.5-3-106~~, [IC 37-2-2-27.5](#), and without regard
34 to whether the person making the loan is regularly engaged in making
35 consumer loans, consumer credit sales, or consumer leases.

36 "Principal" includes the monetary value of property which has
37 been loaned from one (1) person to another person.

38 "Rate" means the monetary value of the consideration received per
39 annum or due per annum, calculated according to the actuarial method
40 on the unpaid balance of the principal.

41 SECTION 85. IC 35-45-7-2, AS AMENDED BY P.L.158-2013,
42 SECTION 536, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2026]: Sec. 2. A person who, in exchange for
 2 the loan of any property, knowingly or intentionally receives or
 3 contracts to receive from another person any consideration, at a rate
 4 greater than two (2) times the rate specified in
 5 ~~IC 24-4.5-3-508(2)(a)(i)~~; ~~↔~~ **IC 37-2-4-35(b)(1)(A)**, commits
 6 loansharking, a Level 6 felony. However, loansharking is a Level 5
 7 felony if force or the threat of force is used to collect or to attempt to
 8 collect any of the property loaned or any of the consideration for the
 9 loan.

10 SECTION 86. IC 35-45-7-3, AS AMENDED BY P.L.35-2010,
 11 SECTION 208, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2026]: Sec. 3. (a) This chapter applies only:

13 (1) to consumer loans, consumer related loans, consumer credit
 14 sales, consumer related sales, and consumer leases, as those
 15 terms are defined in ~~IC 24-4.5~~; ~~↔~~ **IC 37-2**, subject to
 16 adjustment, where applicable, of the dollar amounts set forth in
 17 those definitions under ~~IC 24-4.5-1-106~~; ~~↔~~ **IC 37-2-1-5**;

18 (2) to any loan primarily secured by an interest in land or sale of
 19 an interest in land that is a mortgage transaction (as defined in
 20 ~~IC 24-4.5-1-301.5~~) ~~↔~~ **IC 37-2-2-32**) if the transaction is
 21 otherwise a consumer loan or consumer credit sale; and

22 (3) to any other loan transaction or extension of credit, regardless
 23 of the amount of the principal of the loan or extension of credit,
 24 if unlawful force or the threat of force is used to collect or to
 25 attempt to collect any of the property loaned or any of the
 26 consideration for the loan or extension of credit in question.

27 (b) This chapter applies regardless of whether the contract is made
 28 directly or indirectly, and whether the receipt of the consideration is
 29 received or is due to be received before or after the maturity date of the
 30 loan.

31 SECTION 87. IC 35-52-24-21 IS REPEALED [EFFECTIVE
 32 JULY 1, 2026]. Sec. 21: ~~IC 24-4.5-5-301~~ defines a crime concerning
 33 the Uniform Consumer Credit Code:

34 SECTION 88. IC 35-52-24-22 IS REPEALED [EFFECTIVE
 35 JULY 1, 2026]. Sec. 22: ~~IC 24-4.5-5-302~~ defines a crime concerning
 36 the Uniform Consumer Credit Code:

37 SECTION 89. IC 35-52-24-31 IS REPEALED [EFFECTIVE
 38 JULY 1, 2026]. Sec. 31: ~~IC 24-5.5-6-1~~ defines a crime concerning
 39 mortgage-rescue protection fraud:

40 SECTION 90. IC 35-52-24-39 IS REPEALED [EFFECTIVE
 41 JULY 1, 2026]. Sec. 39: ~~IC 24-9-8-1~~ defines a crime concerning home
 42 loan practices:

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1 SECTION 91. IC 35-52-37 IS ADDED TO THE INDIANA CODE
 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2026]:

4 **Chapter 37. IC 37 Criminal Statutes**

5 **Sec. 1. IC 37-2-6-13 defines a crime concerning the Uniform**
 6 **Consumer Credit Code.**

7 **Sec. 2. IC 37-2-6-14 defines a crime concerning the Uniform**
 8 **Consumer Credit Code.**

9 **Sec. 3. IC 37-4-5-1 defines a crime concerning mortgage rescue**
 10 **protection fraud.**

11 **Sec. 4. IC 37-5-8-1 defines a crime concerning home loan**
 12 **practices.**

13 SECTION 92. IC 36-1-8-11, AS AMENDED BY P.L.105-2013,
 14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2026]: Sec. 11. (a) This section does not apply to a county
 16 treasurer governed by IC 36-2-10-23.

17 (b) As used in this section, "credit card" means a:

- 18 (1) credit card;
- 19 (2) debit card;
- 20 (3) charge card; or
- 21 (4) stored value card.

22 (c) A payment to a political subdivision or a municipally owned
 23 utility for any purpose may be made by any of the following financial
 24 instruments that the fiscal body of the political subdivision or the board
 25 of the municipally owned utility authorizes for use:

- 26 (1) Cash.
- 27 (2) Check.
- 28 (3) Bank draft.
- 29 (4) Money order.
- 30 (5) Bank card or credit card.
- 31 (6) Electronic funds transfer.
- 32 (7) Any other financial instrument authorized by the fiscal body.

33 (d) If there is a charge to the political subdivision or municipally
 34 owned utility for the use of a financial instrument, the political
 35 subdivision or municipally owned utility may collect a sum equal to the
 36 amount of the charge from the person who uses the financial
 37 instrument.

38 (e) If authorized by the fiscal body of the political subdivision or
 39 the board of the municipally owned utility, the political subdivision or
 40 municipally owned utility may accept payments under this section with
 41 a bank card or credit card under the procedures set forth in this section.
 42 However, the procedure authorized for a particular type of payment

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1 must be uniformly applied to all payments of the same type.

2 (f) The political subdivision or municipally owned utility may
3 contract with a bank card or credit card vendor for acceptance of bank
4 cards or credit cards. However, if there is a vendor transaction charge
5 or discount fee, whether billed to the political subdivision or
6 municipally owned utility or charged directly to the political
7 subdivision's or municipally owned utility's account, the political
8 subdivision or municipally owned utility may collect from the person
9 using the card either or both of the following:

10 (1) An official fee that may not exceed the transaction charge or
11 discount fee charged to the political subdivision or municipally
12 owned utility by bank or credit card vendors.

13 (2) A reasonable convenience fee:

14 (A) that may not exceed three dollars (\$3); and

15 (B) that must be uniform regardless of the bank card or
16 credit card used.

17 The fees described in subdivisions (1) and (2) may be collected
18 regardless of retail merchant agreements between the bank and credit
19 card vendors that may prohibit such fees. These fees are permitted
20 additional charges under ~~IC 24-4.5-3-202.~~ **IC 37-2-4-5.**

21 (g) The political subdivision or municipally owned utility may pay
22 any applicable bank card or credit card service charge associated with
23 the use of a bank card or credit card under this subsection.

24 (h) The authorization of the fiscal body of the political subdivision
25 is not required by the bureau of motor vehicles or the bureau of motor
26 vehicles commission to use electronic funds transfer or other financial
27 instruments to transfer funds to the political subdivision.

28 SECTION 93. IC 36-2-7-10, AS AMENDED BY P.L.181-2025,
29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2026]: Sec. 10. (a) The following definitions apply to this
31 section:

32 (1) "Copy" means:

33 (A) transcribing or duplicating a document by handwriting,
34 photocopy, xerography, or duplicating machine;

35 (B) duplicating electronically stored data onto a disk, tape,
36 drum, or any other means of electronic data storage; or

37 (C) reproducing a document by any other means.

38 (2) "Mortgage" means a transfer of rights to real property, in a
39 form substantially similar to that set forth in IC 32-29-1-5, with
40 or without warranty from the grantor. The term does not include:

41 (A) a mortgage modification;

42 (B) a mortgage assignment;

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- 1 (C) a mortgage release; or
- 2 (D) a mortgage assumption.
- 3 (3) "Multiple transaction document" means a document
- 4 containing two (2) or more transactions of the same type.
- 5 (4) "Record" or "recording" means the act of placing a document
- 6 into the official records of the county recorder and includes the
- 7 functions of filing and filing for record.
- 8 (b) The county recorder shall charge and collect the fees
- 9 prescribed by this section for recording, filing, copying, and other
- 10 services the recorder renders, and shall pay them into the county
- 11 treasury at the end of each calendar month. The fees prescribed and
- 12 collected under this section supersede all other recording fees required
- 13 by law to be charged for services rendered by the county recorder.
- 14 (c) The county recorder shall charge the following:
- 15 (1) Twenty-five dollars (\$25) for recording any deed or other
- 16 instrument, other than a mortgage.
- 17 (2) Fifty-five dollars (\$55) for recording any mortgage.
- 18 (3) For pages larger than eight and one-half (8 1/2) inches by
- 19 fourteen (14) inches twenty-five dollars (\$25) for the first page
- 20 and five dollars (\$5) for each additional page of any document
- 21 the recorder records, if the pages are larger than eight and
- 22 one-half (8 1/2) inches by fourteen (14) inches.
- 23 (4) If the county recorder has elected to attest to the release,
- 24 partial release, or assignment of any mortgage, judgment, lien,
- 25 or oil and gas lease contained on a multiple transaction
- 26 document, the fee for each transaction after the first is seven
- 27 dollars (\$7) plus the amount provided in subdivision (1).
- 28 (5) For furnishing copies of records, the fee for each copy is:
- 29 (A) one dollar (\$1) per page that is not larger than eleven
- 30 (11) inches by seventeen (17) inches; and
- 31 (B) five dollars (\$5) per page that is larger than eleven (11)
- 32 inches by seventeen (17) inches.
- 33 (6) Five dollars (\$5) for acknowledging or certifying to a
- 34 document.
- 35 (7) A fee in an amount authorized by an ordinance adopted by
- 36 the county legislative body for duplicating a computer tape, a
- 37 computer disk, an optical disk, microfilm, or similar media. This
- 38 fee may not cover making a handwritten copy or a photocopy or
- 39 using xerography or a duplicating machine.
- 40 (8) Twenty-five dollars (\$25) per parcel for recording the release
- 41 of a lien or liens of a political subdivision for a property sold or
- 42 transferred under IC 6-1.1-24-6.1 or IC 36-1-11, regardless of

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1 the number of liens held by the political subdivision. This fee
2 applies to each political subdivision with a lien or liens on a
3 parcel. In addition to the fee under this subdivision, if a county
4 fiscal body adopts a fee under section 10.7 of this chapter, the
5 county recorder may charge the fee under section 10.7 of this
6 chapter for each document recorded by a political subdivision
7 under this subdivision.

8 (9) This subdivision applies in a county only if at least one (1)
9 unit in the county has established an affordable housing fund
10 under IC 5-20-5-15.5 and the county fiscal body adopts an
11 ordinance authorizing the fee described in this subdivision. An
12 ordinance adopted under this subdivision may authorize the
13 county recorder to charge a fee of ten dollars (\$10) for each
14 document the recorder records.

15 (10) This subdivision applies in a county containing a
16 consolidated city that has established a housing trust fund under
17 IC 36-7-15.1-35.5(e). This subdivision does not apply if the
18 county fiscal body adopts a fee under section 10.7 of this
19 chapter. The county fiscal body may adopt an ordinance
20 authorizing the fee described in this subdivision. An ordinance
21 adopted under this subdivision may authorize the county
22 recorder to charge a fee of:

- 23 (A) two dollars and fifty cents (\$2.50) for the first page; and
 - 24 (B) one dollar (\$1) for each additional page;
- 25 of each document the recorder records.

26 (d) This subsection does not apply in a county containing a
27 consolidated city. Section 10.5 of this chapter applies to the deposit of
28 fees collected under subsection (c)(1) and (c)(8) in a county containing
29 a consolidated city. The county recorder shall deposit the fees collected
30 under subsection (c)(1) and (c)(8) as follows:

- 31 (1) Eight dollars (\$8) in the county general fund.
- 32 (2) Five dollars (\$5) in the county surveyor's corner perpetuation
33 fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).
- 34 (3) Ten dollars (\$10) in the county recorder's records
35 perpetuation fund established under subsection (g).
- 36 (4) One dollar (\$1) in the county identification security
37 protection fund established under IC 36-2-7.5-11.
- 38 (5) One dollar (\$1) in the county elected officials training fund
39 under IC 36-2-7-19.

40 (e) This subsection does not apply in a county containing a
41 consolidated city. Section 10.5 of this chapter applies to the deposit of
42 fees collected under subsection (c)(2) in a county containing a

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1 consolidated city. The county recorder shall deposit the fees collected
2 under subsection (c)(2) as follows:

3 (1) Thirty-four dollars (\$34) in the county general fund.

4 (2) Five dollars (\$5) in the county surveyor's corner perpetuation
5 fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).

6 (3) Eleven dollars and fifty cents (\$11.50) in the county
7 recorder's records perpetuation fund established under
8 subsection (g).

9 (4) Two dollars and fifty cents (\$2.50) with the county treasurer
10 to be distributed in accordance with ~~IC 24-9-9-3~~ ~~IC 37-5-9-2~~ and ~~IC 24-9-9-4~~ ~~IC 37-5-9-3~~.
11

12 (5) One dollar (\$1) in the county identification security
13 protection fund established under IC 36-2-7.5-11.

14 (6) One dollar (\$1) in the county elected officials training fund
15 under IC 36-2-7-19.

16 (f) This subsection applies to all counties. A county recorder shall
17 deposit fees collected under subsection (c)(3), (c)(4), (c)(5), (c)(6), and
18 (c)(7) in the county recorder's records perpetuation fund established
19 under subsection (g).

20 (g) The county treasurer shall establish a county recorder's records
21 perpetuation fund. The fund consists of all fees collected under this
22 section for deposit in the fund and amounts transferred to the fund from
23 the county identification security protection fund under IC 36-2-7.5-11.
24 Except as provided in section 10.2 of this chapter, the county recorder
25 may use any money in this fund without appropriation for:

26 (1) the preservation of records; and

27 (2) the improvement of record keeping systems and equipment;
28 within the control of the county recorder. Money from the fund may not
29 be deposited or transferred into the county general fund and does not
30 revert to the county general fund at the end of a fiscal year.

31 (h) The county recorder shall post the fees set forth in subsection
32 (c) in a prominent place within the county recorder's office where the
33 fee schedule will be readily accessible to the public.

34 (i) The county recorder may not charge or collect any fee for:

35 (1) recording an official bond of a public officer, a deputy, an
36 appointee, or an employee; or

37 (2) performing any service under any of the following:

38 (A) IC 6-1.1-22-2(c).

39 (B) IC 8-23-7.

40 (C) IC 8-23-23.

41 (D) IC 10-17-2-3.

42 (E) IC 10-17-3-2.

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(F) IC 12-14-13.
(G) IC 12-14-16.

(j) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

(k) This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection (c)(9) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (c)(9) shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of the county outside any city or town that has established an affordable housing fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (c)(9) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

(l) This subsection applies to a county described in subsection (c)(10). The county treasurer shall distribute money collected by the county recorder under subsection (c)(10) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (c)(10) shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (c)(10) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected

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from the county recorder.

(m) The county recorder may also include a cross-reference or multiple cross-references identified in a document for recording under this section. For cross-references not otherwise required by statute or county ordinance, the person submitting the document for recording shall clearly identify on the front page of the instrument the specific cross-reference or cross-references to be included with the recorded documents.

SECTION 94. IC 36-2-7-10.5, AS AMENDED BY P.L.181-2025, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 10.5. (a) This section applies only in a county containing a consolidated city.

(b) The county recorder shall deposit the fees collected under section 10(c)(1) and 10(c)(8) of this chapter as follows:

- (1) Nine dollars (\$9) in the county general fund.
- (2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).
- (3) Ten dollars (\$10) in the county recorder's records perpetuation fund established under section 10(g) of this chapter.
- (4) Fifty cents (\$0.50) in the county identification security protection fund established under IC 36-2-7.5-11.
- (5) Fifty cents (\$0.50) in the county elected officials training fund under IC 36-2-7-19.

(c) The county recorder shall deposit the fees collected under section 10(c)(2) of this chapter as follows:

- (1) Thirty-five dollars (\$35) in the county general fund.
- (2) Five dollars (\$5) in the county surveyor's corner perpetuation fund for use as provided under IC 21-47-3-3 or IC 36-2-12-11(e).
- (3) Eleven dollars and fifty cents (\$11.50) in the county recorder's records perpetuation fund established under section 10(g) of this chapter.
- (4) Two dollars and fifty cents (\$2.50) with the county treasurer to be distributed in accordance with ~~IC 24-9-9-3~~ [**IC 37-5-9-2** and ~~IC 24-9-9-4~~] **IC 37-5-9-3**.
- (5) Fifty cents (\$0.50) in the county identification security protection fund established under IC 36-2-7.5-11.
- (6) Fifty cents (\$0.50) in the county elected officials training fund under IC 36-2-7-19.

SECTION 95. IC 36-2-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 23. (a) Notwithstanding any other law, payments to the treasurer for any purpose, including property tax payments, may be made by any of the following financial

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1 instruments that the treasurer authorizes for use:
 2 (1) Cash.
 3 (2) Check.
 4 (3) Bank draft.
 5 (4) Money order.
 6 (5) Bank card or credit card.
 7 (6) Electronic funds transfer.
 8 (7) Any other financial instrument authorized by the treasurer.
 9 (b) If there is a charge to the treasurer for the use of a financial
 10 instrument other than a bank card or credit card, the treasurer shall
 11 collect a sum equal to the amount of the charge from the person who
 12 uses the financial instrument.
 13 (c) A treasurer may contract with a bank card or credit card vendor
 14 for acceptance of bank or credit cards. However, if there is a vendor
 15 transaction charge or discount fee, whether billed to the treasurer or
 16 charged directly to the treasurer's account, the treasurer shall collect
 17 from the person using the card an official fee that may not exceed the
 18 highest transaction charge or discount fee charged to the treasurer by
 19 bank or credit card vendors during the most recent collection period.
 20 This fee may be collected regardless of retail merchant agreements
 21 between the bank and credit card vendors that may prohibit such a fee.
 22 The fee is a permitted additional charge under ~~IC 24-4.5-3-202.~~ [IC 37-2-4-5.](#)
 23
 24 (d) Notwithstanding subsection (a), the authorization of the
 25 treasurer is not required for the bureau of motor vehicles or the bureau
 26 of motor vehicles commission to use electronic funds transfer or other
 27 financial instruments to transfer funds to the county treasurer.
 28 SECTION 96. IC 36-2-11-27, AS ADDED BY P.L.171-2006,
 29 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2026]: Sec. 27. (a) A payment to the county recorder for any
 31 purpose may be made by any of the following financial instruments that
 32 the county recorder authorizes to use:
 33 (1) Cash.
 34 (2) Check.
 35 (3) Bank draft.
 36 (4) Money order.
 37 (5) Bank card or credit card.
 38 (6) Electronic funds transfer.
 39 (7) Any other financial instrument authorized by the county
 40 recorder.
 41 (b) If there is a charge to the county recorder for the use of a
 42 financial instrument other than a bank card or credit card, the county

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1 recorder shall collect a sum equal to the amount of the charge from the
2 person who uses the financial instrument.

3 (c) The county recorder may contract with a bank card or credit
4 card vendor for acceptance of bank cards or credit cards. A payment
5 made under this chapter does not finally discharge the person's liability,
6 and the person has not paid the liability until the county recorder
7 receives payment or credit from the institution responsible for making
8 the payment or credit. Subject to subsection (e), if there is a vendor
9 transaction card or discount fee, whether billed to the county recorder
10 or charged directly to the county recorder's account, the county
11 recorder shall collect a fee from the person using the bank card or
12 credit card. The fee is a permitted charge under ~~IC 24-4.5-3-202~~. [IC 37-2-4-5](#).
13

14 (d) Subject to subsection (e), the county recorder may contract
15 with a payment processing company, which may collect a transaction
16 fee from the person using the bank card or credit card.

17 (e) The county recorder shall collect and deposit in the appropriate
18 fund an amount not less than the amount the county recorder would
19 collect and deposit if the county recorder received payment by a means
20 other than a bank card or credit card.

21 (f) Funds described in subsection (c) may be used without
22 appropriation to pay the transaction charge or discount fee charged by
23 the bank or credit card vendor.

24 SECTION 97. IC 37 IS ADDED TO THE INDIANA CODE AS
25 A NEW TITLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
26 2026]:

27 **TITLE 37. CONSUMER LENDING**

28 **ARTICLE 1. FIRST LIEN MORTGAGE LENDING**

29 **Chapter 1. General Provisions**

30 **Sec. 0.1. This article must be construed as a recodification of**
31 **prior law. The enactment of this article by SEA 169-2026 does not**
32 **affect the substantive operation and effect of the prior law.**

33 **Sec. 0.3. A contract entered into in accordance with IC 24-4.4**
34 **(before its repeal) is considered a contract entered into in**
35 **accordance with this article.**

36 **Sec. 0.5. Any document, website, or business communication**
37 **created in accordance with IC 24-4.4 (before its repeal) is**
38 **considered a document, website, or business communication**
39 **created in accordance with this article.**

40 **Sec. [0.7. \(a\) A reference in a statute or rule to a statute that is](#)**
41 **[repealed and replaced in the same or a different form in the](#)**
42 **[recodification act of the 2026 regular session of the general](#)**

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1 assembly is treated after the effective date of the new provision as
 2 a reference to the new provision.

3 (b) A citation reference in the recodification act of the 2026
 4 regular session of the general assembly to another provision of the
 5 recodification act of the 2026 regular session of the general
 6 assembly is treated as including a reference to the provision of the
 7 first lien mortgage lending law that is substantively equivalent to
 8 the provision of the recodification act of the 2026 regular session
 9 of the general assembly that is referred to by the citation reference.

10 **Sec.] 1.** Notwithstanding any other provision of this article or
 11 IC 37-2, the department may adopt rules under IC 4-22-2, to
 12 remain effective until codified in the Indiana Code, in order to
 13 provide for a system of licensing creditors and mortgage loan
 14 originators that meets the requirements of:

15 (1) the Secure and Fair Enforcement for Mortgage Licensing
 16 Act of 2008 (H.R. 3221 Title V) and the interpretations of
 17 that Act issued by the Secretary of Housing and Urban
 18 Development and the Consumer Financial Protection
 19 Bureau; and

20 (2) the subsequent amendment of the Secure and Fair
 21 Enforcement for Mortgage Licensing Act of 2008 by the
 22 Economic Growth, Regulatory Relief, and Consumer
 23 Protection Act (P.L. 115-174, 132 Stat. 1296).

24 **Sec. 2. (a)** This article shall be liberally construed and applied
 25 to promote the following purposes and policies:

26 (1) To permit and encourage the development of fair and
 27 economically sound first lien mortgage lending practices.

28 (2) To conform the regulation of first lien mortgage lending
 29 practices to applicable state and federal laws, rules,
 30 regulations, policies, and guidance.

31 (b) A reference to a requirement imposed by this article
 32 includes reference to a related rule of the department adopted
 33 under this article.

34 (c) A reference to a federal law in this article is a reference to
 35 the law as in effect December 31, 2024.

36 **Sec. 3.** This article is a general statute intended as a unified
 37 coverage of its subject matter. No part of this article may be
 38 considered to be impliedly repealed by subsequent legislation if
 39 such construction can reasonably be avoided.

40 **Sec. 4.** The provisions of this article are severable, so that if:

41 (1) any provisions of this article; or

42 (2) the application of this article to any person or

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1 circumstances;
2 is held invalid, the invalidity does not affect other provisions or
3 applications of this article that can be given effect without the
4 invalid provision or application.

5 Sec. 5. (a) Except as provided in subsection (b), this article
6 applies to a first lien mortgage transaction:

7 (1) that is secured by an interest in:

8 (A) a dwelling; or

9 (B) residential real estate upon which a dwelling is
10 constructed or intended to be constructed;

11 in Indiana; and

12 (2) the closing for which takes place after June 30, 2026.

13 (b) This article does not apply to a first lien mortgage
14 transaction if:

15 (1) the debtor is not a resident of Indiana at the time the
16 transaction is entered into; and

17 (2) the laws of the debtor's state of residence require that the
18 transaction be made under the laws of the state of the
19 debtor's residence.

20 Sec. 6. This article does not apply to the following:

21 (1) Extensions of credit to government or governmental
22 agencies or instrumentalities.

23 (2) A first lien mortgage transaction in which the debt is
24 incurred primarily for a purpose other than a personal,
25 family, or household purpose.

26 (3) An extension of credit primarily for a business, a
27 commercial, or an agricultural purpose.

28 (4) Except for IC 37-1-3-4(b), IC 37-1-3-8, IC 37-1-3-19(d),
29 and IC 37-1-3-19(e), a first lien mortgage transaction made:

30 (A) in compliance with the requirements of; and

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

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

36 (5) Except for IC 37-1-3-4(b), IC 37-1-3-8, IC 37-1-3-19(d),
37 and IC 37-1-3-19(e), a first lien mortgage transaction made
38 by an entity that exclusively uses funds provided by the
39 United States Department of Housing and Urban
40 Development under Title 1 of the federal Housing and
41 Community Development Act of 1974, Public Law 93-383, as
42 amended (42 U.S.C. 5301 et seq.).

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- (6) An extension of credit originated by the following:**
 - (A) A depository institution.**
 - (B) Subsidiaries that are not licensed under this article and that are:**
 - (i) owned and controlled by a depository institution; and**
 - (ii) regulated by a federal banking agency.**
 - (C) An institution regulated by the Farm Credit Administration.**
- (7) Except for IC 37-1-3-4(b), IC 37-1-3-8, IC 37-1-3-19(d), and IC 37-1-3-19(e), a credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.**
- (8) A person that does not engage as a creditor in first lien mortgage transactions in Indiana. However, a person may voluntarily register with the department for the purpose of sponsoring employees who are licensed as mortgage loan originators under this article and 750 IAC 9-3, and who are engaged solely as third party loan processors or underwriters, if the person does the following:**
 - (A) Assumes responsibility for and reasonably supervises the activities of all licensed mortgage loan originators sponsored by the person.**
 - (B) Registers with and maintains a valid unique identifier issued by the NMLSR as required by IC 37-1-3-4(b), maintains a surety bond in accordance with IC 37-1-3-8, submits to the NMLSR reports of condition in accordance with IC 37-1-3-19(d) (subject to IC 37-1-3-9), and files financial statements with the department in accordance with IC 37-1-3-19(e).**
 - (C) Cooperates with the department, and provides access to records and documents, as required by the department in carrying out examinations of the activities of the licensed mortgage loan originators sponsored by the person, as described in IC 37-1-3-19(a).**
 - (D) Agrees to comply with all law, rules, directives, and orders in connection with the activities of the licensed mortgage loan originators sponsored by the person, as the director determines necessary to ensure compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.)**

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- 1 and with Indiana law.
- 2 **(9) A first lien mortgage transaction originated by a**
 3 **registered mortgage loan originator, when acting for an**
 4 **entity described in subdivision (6). However, a privately**
 5 **insured state chartered credit union shall comply with the**
 6 **system of mortgage loan originator registration developed by**
 7 **the Federal Financial Institutions Examinations Council**
 8 **under Section 1507 of the federal Secure and Fair**
 9 **Enforcement for Mortgage Licensing Act of 2008 (SAFE).**
- 10 **(10) An individual who offers or negotiates terms of a**
 11 **mortgage transaction with or on behalf of an immediate**
 12 **family member of the individual.**
- 13 **(11) An individual who offers or negotiates terms of a**
 14 **mortgage transaction secured by a dwelling that served as**
 15 **the individual's residence.**
- 16 **(12) Unless the attorney is compensated by:**
- 17 **(A) a lender;**
 18 **(B) a mortgage broker;**
 19 **(C) another mortgage loan originator; or**
 20 **(D) any agent of the lender, mortgage broker, or other**
 21 **mortgage loan originator described in clauses (A)**
 22 **through (C);**
- 23 **a licensed attorney who negotiates the terms of a mortgage**
 24 **transaction on behalf of a client as an ancillary matter to the**
 25 **attorney's representation of the client.**
- 26 **(13) The United States, any state or local government, or any**
 27 **agency or instrumentality of any governmental entity,**
 28 **including United States government sponsored enterprises.**
- 29 **(14) A person in whose name a tablefunded transaction is**
 30 **closed. However, the exemption provided by this subdivision**
 31 **does not apply if:**
- 32 **(A) the transaction:**
- 33 **(i) is secured by a dwelling that is a mobile home, a**
 34 **manufactured home, or a trailer; and**
 35 **(ii) is not also secured by an interest in land; and**
- 36 **(B) the person in whose name the transaction is closed**
 37 **sells the dwelling to the debtor through a retail**
 38 **installment contract or other similar transaction.**
- 39 **(15) A bona fide nonprofit organization not operating in a**
 40 **commercial context, as determined by the director, if the**
 41 **following criteria are satisfied:**
- 42 **(A) Subject to clause (B), the organization originates**

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- 1 only one (1) or both of the following types of mortgage
2 transactions:
- 3 (i) Zero (0) interest first lien mortgage transactions.
4 (ii) Zero (0) interest subordinate lien mortgage
5 transactions.
- 6 (B) The organization does not require, under the terms
7 of the mortgage or otherwise, balloon payments with
8 respect to the mortgage transactions described in clause
9 (A).
- 10 (C) The organization is exempt from federal income
11 taxation under Section 501(c)(3) of the Internal Revenue
12 Code.
- 13 (D) The organization's primary purpose is to serve the
14 public by helping low income individuals and families
15 build, repair, and purchase housing.
- 16 (E) The organization uses only:
17 (i) unpaid volunteers; or
18 (ii) employees whose compensation is not based on
19 the number or size of any mortgage transactions
20 that the employees originate;
21 to originate the mortgage transactions described in
22 clause (A).
- 23 (F) The organization does not charge loan origination
24 fees in connection with the mortgage transactions
25 described in clause (A).
- 26 (16) A bona fide nonprofit organization if the following
27 criteria are satisfied:
- 28 (A) For each calendar year that the organization seeks
29 the exemption provided by this subdivision, the
30 organization certifies, not later than December 31 of the
31 preceding calendar year and on a form prescribed by
32 the director and accompanied by such documentation as
33 required by the director, that the organization is a bona
34 fide nonprofit organization.
- 35 (B) The director determines that the organization
36 originates only mortgage transactions that are favorable
37 to the debtor. For purposes of this clause, a mortgage
38 transaction is favorable to the debtor if the director
39 determines that the terms of the mortgage transaction
40 are consistent with terms of mortgage transactions made
41 in a public or charitable context, rather than in a
42 commercial context.

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1 **Sec. 7. (a) If a person licensed or required to be licensed by the**
 2 **department to engage in mortgage transactions also engages in**
 3 **activities of a loan broker described in IC 23-2.5, the activities of**
 4 **a loan broker are subject to the following sections of the Indiana**
 5 **Code and any rules adopted to implement these sections:**

6 (1) IC 23-2.5-8-1, except for IC 23-2.5-8-1(b)(2).

7 (2) IC 23-2.5-8-2.

8 (3) IC 23-2.5-11-15(b) and IC 23-2.5-11-15(c).

9 (4) IC 23-2.5-11-17.

10 (5) IC 23-2.5-8-3.

11 (6) IC 23-2.5-8-4 through IC 23-2.5-8-9.

12 (7) IC 23-2.5-8-10.

13 (8) IC 23-2.5-10-1.

14 (9) IC 23-2.5-9-1.

15 (10) IC 23-2.5-11-16.

16 **(b) Loan broker business transactions engaged in by persons**
 17 **licensed or required to be licensed by the department to engage in**
 18 **mortgage transactions are subject to examination by the**
 19 **department and to the examination fees described in**
 20 **IC 37-1-3-5(h)(3). The department may cooperate with the**
 21 **securities division of the office of the secretary of state in the**
 22 **department's examination of loan broker business transactions and**
 23 **may use the securities division's examiners to conduct**
 24 **examinations.**

25 **Sec. 8. In the department's examination and regulatory**
 26 **activities related to licensees under this article, the department**
 27 **may cooperate with the Indiana securities commissioner in the**
 28 **regulation of entities that, in addition to conducting business**
 29 **regulated under this article, also conduct activities of a loan broker**
 30 **subject to IC 23-2.5.**

31 **Sec. 9. A licensee may carry on other business at a location**
 32 **where the licensee engages in first lien mortgage transactions**
 33 **unless the licensee carries on other business for the purpose of**
 34 **evasion or violation of this article.**

35 **Chapter 2. Definitions**

36 **Sec. 1. The definitions set forth in this chapter apply**
 37 **throughout this article.**

38 **Sec. 2. "Affiliate", with respect to any person subject to this**
 39 **article, means a person that, directly or indirectly, through one (1)**
 40 **or more intermediaries:**

41 (1) controls;

42 (2) is controlled by; or

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1 (3) is under common control with;
2 the person subject to this article.

3 Sec. 3. "Agreement" means the bargain of the parties in fact
4 as found in the parties' language or by implication from other
5 circumstances, including course of dealing or usage of trade or
6 course of performance.

7 Sec. 4. "Agricultural products" includes agricultural products,
8 horticultural products, viticultural products, dairy products,
9 livestock, wildlife, poultry, bees, forest products, fish and shellfish,
10 any products raised or produced on farms, and any products
11 processed or manufactured from products raised or produced on
12 farms.

13 Sec. 5. "Agricultural purpose" means a purpose related to the
14 production, harvest, exhibition, marketing, transportation,
15 processing, or manufacture of agricultural products by a natural
16 person who cultivates, plants, propagates, or nurtures the
17 agricultural products.

18 Sec. 6. "Balloon payment", with respect to a mortgage
19 transaction, means any payment:

20 (1) that the creditor requires the debtor to make at any time
21 during the term of the mortgage;

22 (2) that represents the entire amount of the outstanding
23 balance with respect to the mortgage; and

24 (3) the entire amount of which is due as of a specified date or
25 at the end of a specified period;

26 if the aggregate amount of the minimum periodic payments
27 required under the mortgage would not fully amortize the
28 outstanding balance by the specified date or at the end of the
29 specified period. The term does not include a payment required by
30 a creditor under a due-on-sale clause (as defined in 12 U.S.C.
31 1701j-3(a)) or a payment required by a creditor under a provision
32 in the mortgage that permits the creditor to accelerate the debt
33 upon the debtor's default or failure to abide by the material terms
34 of the mortgage.

35 Sec. 7. "Bona fide nonprofit organization" means an
36 organization that does the following, as determined by the director,
37 under criteria established by the director:

38 (1) Maintains tax exempt status under Section 501(c)(3) of
39 the Internal Revenue Code.

40 (2) Promotes affordable housing or provides home ownership
41 education or similar services.

42 (3) Conducts the organization's activities in a manner that

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- 1 serves public or charitable purposes.
- 2 (4) Receives funding and revenue and charges fees in a
- 3 manner that does not encourage the organization or the
- 4 organization's employees to act other than in the best
- 5 interests of the organization's clients.
- 6 (5) Compensates the organization's employees in a manner
- 7 that does not encourage employees to act other than in the
- 8 best interests of the organization's clients.
- 9 (6) Provides to, or identifies for, debtors mortgage
- 10 transactions with terms that are favorable to the debtor (as
- 11 described in IC 37-1-1-6(16)) and comparable to mortgage
- 12 transactions and housing assistance provided under
- 13 government housing assistance programs.
- 14 (7) Maintains certification by the United States Department
- 15 of Housing and Urban Development or employs counselors
- 16 who are certified by the Indiana housing and community
- 17 development authority.
- 18 Sec. 8. "Civil court" means any court in Indiana having
- 19 jurisdiction of civil cases.
- 20 Sec. 9. "Consumer credit sale" is a sale of goods, services, or
- 21 an interest in land in which:
- 22 (1) credit is granted by a person who engages as a seller in
- 23 credit transactions of the same kind;
- 24 (2) the buyer is a person other than an organization;
- 25 (3) the goods, services, or interest in land are purchased
- 26 primarily for a personal, family, or household purpose;
- 27 (4) either the debt is payable in installments or a credit
- 28 service charge is made; and
- 29 (5) with respect to a sale of goods or services, either:
- 30 (A) the amount of credit extended, the written credit
- 31 limit, or the initial advance does not exceed the exempt
- 32 threshold amount, as adjusted in accordance with the
- 33 annual adjustment of the exempt threshold amount,
- 34 specified in Regulation Z (12 CFR 226.3 or 12 CFR
- 35 1026.3(b), as applicable); or
- 36 (B) the debt is secured by personal property used or
- 37 expected to be used as the principal dwelling of the
- 38 buyer.
- 39 Sec. 10. "Credit" means the right granted by a creditor to a
- 40 debtor to defer payment of debt or to incur debt and defer its
- 41 payment.
- 42 Sec. 11. "Creditor" means a person:

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1 (1) that regularly engages in the extension of first lien
2 mortgage transactions that are subject to a credit service
3 charge or loan finance charge, as applicable, or are payable
4 by written agreement in more than four (4) installments (not
5 including a down payment); and

6 (2) to which the obligation is initially payable, either on the
7 face of the note or contract, or by agreement if there is not a
8 note or contract.

9 The term does not include a person described in section 39 of this
10 chapter in a tablefunded transaction. A creditor may be an
11 individual, a limited liability company, a sole proprietorship, a
12 partnership, a trust, a joint venture, a corporation, an
13 unincorporated organization, or other form of entity, however
14 organized.

15 Sec. 12. "Department" refers to the department of financial
16 institutions.

17 Sec. 13. "Depository institution" has the meaning set forth in
18 the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes
19 any credit union.

20 Sec. 14. "Director" refers to the director of the department of
21 financial institutions or the director's designee.

22 Sec. 15. "Dwelling" means a residential structure that contains
23 one (1) to four (4) units, regardless of whether the structure is
24 attached to real property. The term includes an individual:

- 25 (1) condominium unit;
- 26 (2) cooperative unit;
- 27 (3) mobile home; or
- 28 (4) trailer;

29 that is used as a residence.

30 Sec. 16. "Employee" means an individual who is paid wages or
31 other compensation by an employer required under federal income
32 tax law to file Form W-2 on behalf of the individual.

33 Sec. 17. "Federal banking agencies" means the Board of
34 Governors of the Federal Reserve System, the Office of the
35 Comptroller of the Currency, the Office of Thrift Supervision, the
36 National Credit Union Administration, and the Federal Deposit
37 Insurance Corporation.

38 Sec. 18. "First lien mortgage transaction" means:

- 39 (1) a consumer loan; or
- 40 (2) a consumer credit sale;

41 that is or will be used by the debtor primarily for personal, family,
42 or household purposes and that is secured by a mortgage or a land

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

5 Sec. 19. "Immediate family member" means a spouse, child,
6 sibling, parent, grandparent, or grandchild. The term includes
7 stepparents, stepchildren, stepsiblings, and adoptive relationships.

8 Sec. 20. "Individual" means a natural person.

9 Sec. 21. "Land contract" means a contract for the sale of real
10 estate in which the seller of the real estate retains legal title to the
11 real estate until the total contract price is paid by the buyer.

12 Sec. 22. "Licensee" means a person licensed to engage in
13 mortgage transactions as a creditor.

14 Sec. 23. "Loan" includes:

15 (1) the creation of debt by:

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

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

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

25 (3) the forbearance of debt arising from a loan.

26 Sec. 24. "Loan brokerage business" means any activity in
27 which a person, in return for any consideration from any source,
28 procures, attempts to procure, or assists in procuring, a mortgage
29 transaction from a third party or any other person, whether or not
30 the person seeking the mortgage transaction actually obtains the
31 mortgage transaction.

32 Sec. 25. "Loan processor or underwriter" means an individual
33 who performs clerical or support duties as an employee at the
34 direction of, and subject to the supervision and instruction of, a
35 person licensed to engage in mortgage transactions or a person
36 exempt from licensing. For purposes of this section, the term
37 "clerical or support duties" may include, after the receipt of an
38 application, the following:

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

42 (2) The communication with a consumer to obtain the

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1 information necessary for the processing or underwriting of
 2 a loan, to the extent that the communication does not
 3 include:

- 4 (A) offering or negotiating loan rates or terms; or
 5 (B) counseling consumers about mortgage transaction
 6 rates or terms.

7 The term does not include an individual who is an employee of a
 8 person that is not engaged in mortgage transactions as a creditor
 9 if that person is permitted to voluntarily register with the
 10 department to sponsor the individual under IC 37-1-1-6(8) to
 11 engage solely in the activities described in this subdivision.

12 Sec. 26. "Mortgage loan originator" means an individual who,
 13 for 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 IC 37-2
 17 is made by an employee of a person licensed to engage in mortgage
 18 transactions or by an employee of a person that is exempt from
 19 licensing, while the employee is engaging in the loan brokerage
 20 business. The term does not include the following:

21 (1) An individual engaged solely as a loan processor or
 22 underwriter as long as the individual works exclusively as an
 23 employee of a person licensed to engage in mortgage
 24 transactions or as an employee of a person exempt from
 25 licensing. However, the term includes an individual who is
 26 licensed as a mortgage loan originator under this article and
 27 750 IAC 9-3 and who is an employee of a person that is not
 28 engaged in mortgage transactions as a creditor if that person
 29 voluntarily registers with the department to sponsor the
 30 individual under IC 37-1-1-6(8) to engage solely as a third
 31 party processor or underwriter.

32 (2) Unless the person or entity is compensated by:

- 33 (A) a creditor;
 34 (B) a loan broker;
 35 (C) another mortgage loan originator; or
 36 (D) any agent of a creditor, a loan broker, or another
 37 mortgage loan originator described in clauses (A)
 38 through (C);

39 a person or entity that performs only real estate brokerage
 40 activities and is licensed or registered in accordance with
 41 applicable state law.

42 (3) A person solely involved in extensions of credit relating

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1 to timeshare plans (as defined in 11 U.S.C. 101(53D)).
2 Sec. 27. "Mortgage servicer" means the last person to whom
3 a mortgagor or the mortgagor's successor in interest has been
4 instructed by a mortgagee to send payments on a loan secured by
5 a mortgage.

6 Sec. 28. "Mortgage transaction" means:
7 (1) a consumer loan; or
8 (2) a consumer credit sale;
9 that is or will be used by the debtor primarily for personal, family,
10 or household purposes and that is secured by a mortgage or a land
11 contract (or another consensual security interest equivalent to a
12 mortgage or a land contract) on a dwelling or on residential real
13 estate upon which a dwelling is constructed or intended to be
14 constructed.

15 Sec. 29. "Nationwide Multistate Licensing System and
16 Registry" (or "Nationwide Mortgage Licensing System and
17 Registry" or "NMLSR") means a multistate licensing system
18 owned and operated by the State Regulatory Registry, LLC, or by
19 any successor or affiliated entity, for the licensing and registration
20 of creditors, mortgage loan originators, and other persons in the
21 mortgage or financial services industries. The term includes any
22 other name or acronym that may be assigned to the system by the
23 State Regulatory Registry, LLC, or by any successor or affiliated
24 entity.

25 Sec. 30. "Organization" means a corporation, a government
26 or government subdivision, an agency, a trust, an estate, a
27 partnership, a limited liability company, a cooperative, an
28 association, a joint venture, an unincorporated organization, or
29 any other entity, however organized.

30 Sec. 31. "Payable in installments", with respect to a debt or an
31 obligation, means that payment is required or permitted by written
32 agreement to be made in more than four (4) installments not
33 including a down payment.

34 Sec. 32. "Person" includes an individual or an organization.

35 Sec. 33. "Principal" of a mortgage transaction means the total
36 of:

- 37 (1) the net amount paid to, receivable by, or paid or payable
38 for the account of the debtor; and
- 39 (2) to the extent that payment is deferred, amounts actually
40 paid or to be paid by the creditor for registration, certificate
41 of title, or license fees if not included in subdivision (1).

42 Sec. 34. "Real estate brokerage activity" means any activity

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1 that involves offering or providing real estate brokerage services
2 to the public, including the following:

3 (1) Acting as a real estate agent or real estate broker for a
4 buyer, seller, lessor, or lessee of real property.

5 (2) Bringing together parties interested in the sale, purchase,
6 lease, rental, or exchange of real property.

7 (3) Negotiating, on behalf of any party, any part of a contract
8 relating to the sale, purchase, lease, rental, or exchange of
9 real property (other than in connection with providing
10 financing with respect to the sale, purchase, lease, rental, or
11 exchange of real property).

12 (4) Engaging in any activity for which a person engaged in
13 the activity is required to be registered or licensed as a real
14 estate agent or real estate broker under any applicable law.

15 (5) Offering to engage in any activity, or act in any capacity,
16 described in this subsection.

17 Sec. 35. "Registered mortgage loan originator" means any
18 individual who:

19 (1) meets the definition of mortgage loan originator and is an
20 employee of:

21 (A) a depository institution;

22 (B) a subsidiary that is owned and controlled by a
23 depository institution and regulated by a federal
24 banking agency; or

25 (C) an institution regulated by the Farm Credit
26 Administration; and

27 (2) is registered with, and maintains a unique identifier
28 through, the NMLSR.

29 Sec. 36. "Regularly engaged", with respect to a person who
30 extends or originates first lien mortgage transactions, refers to a
31 person who:

32 (1) extended or originated more than five (5) first lien
33 mortgage transactions in the preceding calendar year; or

34 (2) extends or originates, or will extend or originate, more
35 than five (5) first lien mortgage transactions in the current
36 calendar year if the person did not extend or originate more
37 than five (5) first lien mortgage transactions in the preceding
38 calendar year.

39 Sec. 37. "Residential real estate" means any real property that
40 is located in Indiana and on which there is located or intended to
41 be constructed a dwelling.

42 Sec. 38. "Revolving first lien mortgage transaction" means a

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- 1 first lien mortgage transaction in which:
- 2 (1) the creditor permits the debtor to obtain advances from
- 3 time to time;
- 4 (2) the unpaid balances of principal, finance charges, and
- 5 other appropriate charges are debited to an account; and
- 6 (3) the debtor has the privilege of paying the balances in
- 7 installments.

- 8 Sec. 39. "Tablefunded" means a transaction in which:
- 9 (1) a person closes a first lien mortgage transaction in the
- 10 person's own name as a mortgagee with funds provided by
- 11 one (1) or more other persons; and
- 12 (2) the transaction is assigned, not later than one (1) business
- 13 day after the funding of the transaction, to the mortgage
- 14 creditor providing the funding.

15 Sec. 40. "Unique identifier" means a number or other
 16 identifier assigned by protocols established by the NMLSR.

17 Chapter 3. Miscellaneous Provisions

18 Sec. 1. (a) A creditor or mortgage servicer shall provide, in
 19 writing, an accurate payoff amount for a first lien mortgage
 20 transaction to the debtor not later than seven (7) business days
 21 (excluding legal public holidays, Saturdays, and Sundays) after the
 22 creditor or mortgage servicer receives the debtor's written request
 23 for the accurate payoff amount. A payoff statement provided by a
 24 creditor or mortgage servicer under this subsection must show the
 25 date the statement was prepared and itemize the unpaid principal
 26 balance and each fee, charge, or other sum included within the
 27 payoff amount. A creditor or mortgage servicer who fails to
 28 provide an accurate payoff amount is liable for:

- 29 (1) one hundred dollars (\$100) if an accurate payoff amount
- 30 is not provided by the creditor or mortgage servicer not later
- 31 than seven (7) business days (excluding legal public holidays,
- 32 Saturdays, and Sundays) after the creditor or mortgage
- 33 servicer receives the debtor's first written request; and
- 34 (2) the greater of:
- 35 (A) one hundred dollars (\$100); or
- 36 (B) the loan finance charge that accrues on the first lien
- 37 mortgage transaction from the date the creditor or
- 38 mortgage servicer receives the first written request until
- 39 the date on which the accurate payoff amount is
- 40 provided;

41 if an accurate payoff amount is not provided by the creditor
 42 or mortgage servicer not later than seven (7) business days

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1 (excluding legal public holidays, Saturdays, and Sundays)
 2 after the creditor or mortgage servicer receives the debtor's
 3 second written request, and the creditor or mortgage
 4 servicer fails to comply with subdivision (1).

5 (b) This subsection applies to a first lien mortgage transaction,
 6 or the refinancing or consolidation of a first lien mortgage
 7 transaction, that:

8 (1) is closed after June 30, 2009; and

9 (2) has an interest rate that is subject to change at one (1) or
 10 more times during the term of the first lien mortgage
 11 transaction.

12 A creditor in a transaction to which this subsection applies may not
 13 contract for and may not charge the debtor a prepayment fee or
 14 penalty.

15 (c) This subsection applies to a first lien mortgage transaction
 16 with respect to which any installment or minimum payment due is
 17 delinquent for at least sixty (60) days. The creditor, servicer, or the
 18 creditor's agent shall acknowledge a written offer made in
 19 connection with a proposed short sale not later than five (5)
 20 business days (excluding legal public holidays, Saturdays, and
 21 Sundays) after the date of the offer if the offer complies with the
 22 requirements for a qualified written request set forth in 12 U.S.C.
 23 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required
 24 to acknowledge a written offer made in connection with a proposed
 25 short sale from a third party acting on behalf of the debtor only if
 26 the debtor has provided written authorization for the creditor,
 27 servicer, or creditor's agent to do so. Not later than thirty (30)
 28 business days (excluding legal public holidays, Saturdays, and
 29 Sundays) after receipt of an offer under this subsection, the
 30 creditor, servicer, or creditor's agent shall respond to the offer
 31 with an acceptance or a rejection of the offer. The thirty (30) day
 32 period described in this subsection may be extended for not more
 33 than fifteen (15) business days (excluding legal public holidays,
 34 Saturdays, and Sundays) if, before the end of the thirty (30) day
 35 period, the creditor, the servicer, or the creditor's agent notifies the
 36 debtor of the extension and the reason the extension is needed.
 37 Payment accepted by a creditor, servicer, or creditor's agent in
 38 connection with a short sale constitutes payment in full satisfaction
 39 of the first lien mortgage transaction unless the creditor, servicer,
 40 or creditor's agent obtains:

41 (1) the following statement: "The debtor remains liable for
 42 any amount still owed under the first lien mortgage

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1 **transaction."; or**
 2 **(2) a statement substantially similar to the statement set**
 3 **forth in subdivision (1);**
 4 **acknowledged by the initials or signature of the debtor, on or**
 5 **before the date on which the short sale payment is accepted. As**
 6 **used in this subsection, "short sale" means a transaction in which**
 7 **the property that is the subject of a first lien mortgage transaction**
 8 **is sold for an amount that is less than the amount of the debtor's**
 9 **outstanding obligation under the first lien mortgage transaction.**
 10 **A creditor or mortgage servicer that fails to respond to an offer**
 11 **within the time prescribed by this subsection is liable in accordance**
 12 **with 12 U.S.C. 2605(f) in any action brought under that section.**
 13 **(d) This section is not intended to provide the owner of real**
 14 **estate subject to the issuance of process under a judgment or**
 15 **decree of foreclosure any protection or defense against a deficiency**
 16 **judgment for purposes of the borrower protections from liability**
 17 **that must be disclosed under 12 CFR 1026.38(p)(3) on the form**
 18 **required by 12 CFR 1026.38 ("Closing Disclosures" form under**
 19 **the Amendments to the 2013 Integrated Mortgage Disclosures Rule**
 20 **Under the Real Estate Settlement Procedures Act (Regulation X)**
 21 **and the Truth In Lending Act (Regulation Z) and the 2013 Loan**
 22 **Originator Rule Under the Truth in Lending Act (Regulation Z)).**
 23 **Sec. 2. (a) Except as provided in subsection (b), the creditor**
 24 **shall comply with disclosure requirements applicable to first lien**
 25 **mortgage transactions in the Consumer Credit Protection Act (15**
 26 **U.S.C. 1601 et seq.).**
 27 **(b) Disclosures are not required if the transaction is exempt**
 28 **from the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).**
 29 **Sec. 3. (a) A violation of a state or federal law, regulation, or**
 30 **rule applicable to first lien mortgage transactions is a violation of**
 31 **this article.**
 32 **(b) The department may enforce penalty provisions set forth**
 33 **in 15 U.S.C. 1640 for violations of disclosure requirements**
 34 **applicable to first lien mortgage transactions.**
 35 **Sec. 4. (a) Unless a person subject to this article has first**
 36 **obtained a mortgage license from the department and annually**
 37 **maintains the license, the person shall not engage in Indiana as a**
 38 **creditor in first lien mortgage transactions. A separate mortgage**
 39 **license is required for each legal entity that engages in Indiana as**
 40 **a creditor in first lien mortgage transactions. However, a separate**
 41 **mortgage license is not required for each branch of a legal entity**
 42 **licensed by the department.**

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- 1 **(b) Each:**
- 2 **(1) creditor licensed by the department to engage in**
- 3 **mortgage transactions; and**
- 4 **(2) person exempt from licensing that:**
- 5 **(A) employs a licensed mortgage loan originator; or**
- 6 **(B) sponsors a licensed mortgage loan originator as**
- 7 **permitted by IC 37-1-1-6(8) or by 750 IAC 9;**
- 8 **shall register with and maintain a valid unique identifier issued by**
- 9 **the NMLSR. Each licensed mortgage loan originator must be**
- 10 **employed by, or sponsored as permitted by IC 37-1-1-6(8) or by**
- 11 **750 IAC 9, and associated with, a licensed creditor (or a person**
- 12 **exempt from licensing) that is registered with the NMLSR.**
- 13 **(c) An individual engaging solely in loan processor or**
- 14 **underwriter activities shall not represent to the public, through**
- 15 **advertising or other means of communicating or providing**
- 16 **information, including the use of business cards, stationery,**
- 17 **brochures, signs, rate lists, or other promotional items, that the**
- 18 **individual can or will perform any of the activities of a mortgage**
- 19 **loan originator. An individual who:**
- 20 **(1) is licensed as a mortgage loan originator under this**
- 21 **article and 750 IAC 9-3; and**
- 22 **(2) is sponsored by a person, as permitted by IC 37-1-1-6(8),**
- 23 **to engage solely as a third party loan processor or**
- 24 **underwriter;**
- 25 **is subject to the prohibition set forth in this subsection with respect**
- 26 **to the individual's engagement under the sponsorship.**
- 27 **(d) An applicant for a mortgage license must apply for the**
- 28 **license in the form prescribed by the director. Each form:**
- 29 **(1) must contain content as set forth by rule, instruction, or**
- 30 **procedure of the director; and**
- 31 **(2) may be changed or updated as necessary by the director**
- 32 **to carry out the purposes of this article.**
- 33 **(e) To fulfill the purposes of this article, the director may**
- 34 **establish relationships or contracts with the NMLSR or other**
- 35 **entities designated by the NMLSR to:**
- 36 **(1) collect and maintain records; and**
- 37 **(2) process transaction fees or other fees related to licensees**
- 38 **or other persons subject to this article.**
- 39 **(f) For the purpose of participating in the NMLSR, the**
- 40 **director or the department may:**
- 41 **(1) waive or modify, in whole or in part, by rule or order,**
- 42 **any of the requirements of this article; and**

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1 (2) establish new requirements as reasonably necessary to
2 participate in the NMLSR.

3 Sec. 5. (a) The department shall receive and act on all
4 applications for licenses to engage in first lien mortgage
5 transactions. Applications must be made as prescribed by the
6 director. If, at any time, the information or record contained in:

- 7 (1) an application filed under this section; or
8 (2) a renewal application filed under section 10 of this
9 chapter;

10 is or becomes inaccurate or incomplete in a material respect, the
11 applicant shall promptly file a correcting amendment with the
12 department.

13 (b) A license may not be issued unless the department finds
14 that the professional training and experience, financial
15 responsibility, character, and fitness of:

- 16 (1) the applicant and any significant affiliate of the applicant;
17 (2) each executive officer, director, or manager of the
18 applicant, or any other individual having a similar status or
19 performing a similar function for the applicant; and
20 (3) if known, each person directly or indirectly owning of
21 record or owning beneficially at least ten percent (10%) of
22 the outstanding shares of any class of equity security of the
23 applicant;

24 are such as to warrant belief that the business will be operated
25 honestly and fairly within the purposes of this article.

26 (c) The director is entitled to request evidence of compliance
27 with this section at:

- 28 (1) the time of application;
29 (2) the time of renewal of a license; or
30 (3) any other time considered necessary by the director.

31 (d) Evidence of compliance with this section must include:

- 32 (1) criminal background checks, as described in section 6 of
33 this chapter, including a national criminal history
34 background check (as defined in IC 10-13-3-12) by the
35 Federal Bureau of Investigation, for any individual described
36 in subsection (b);
37 (2) credit histories as described in section 7 of this chapter;
38 (3) surety bond requirements as described in section 8 of this
39 chapter;
40 (4) a review of licensure actions in Indiana and in other
41 states; and
42 (5) other background checks considered necessary by the

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director.

(e) For purposes of this section and in order to reduce the points of contact that the director has to maintain for purposes of this section, the director may use the NMLSR as a channeling agent for requesting and distributing information to and from any source as directed by the director.

(f) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(g) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license in the manner provided in IC 4-21.5.

(h) The applicant shall pay the following fees at the time designated by the department:

- (1) An initial license fee as established by the department under IC 28-11-3-5.
- (2) An annual renewal fee as established by the department under IC 28-11-3-5.
- (3) Examination fees as established by the department under IC 28-11-3-5.

(i) A fee as established by the department under IC 28-11-3-5 may be charged for each day a fee under subsection (h)(2) or (h)(3) is delinquent.

(j) Except in a transaction approved under section 20 of this chapter, a license issued under this section is not assignable or transferable.

(k) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

- (1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
- (2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

Sec. 6. (a) When the director requests a national criminal history background check under section 5(d)(1) of this chapter for an individual described in section 5(b) of this chapter, the director shall require the individual to submit fingerprints to the department, state police department, or NMLSR, as directed, at the time evidence of compliance is requested under section 5(c) of this chapter. The individual to whom the request is made shall pay

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1 any fees or costs associated with processing and evaluating the
 2 fingerprints and the national criminal history background check.
 3 The national criminal history background check may be used by
 4 the director to determine the individual's compliance with this
 5 section. The director or the department may not release the results
 6 of the national criminal history background check to any private
 7 entity.

8 (b) For purposes of this section and in order to reduce the
 9 points of contact that the Federal Bureau of Investigation may
 10 have to maintain for purposes of this section, the director may use
 11 the NMLSR as a channeling agent for requesting information from
 12 and distributing information to the United States Department of
 13 Justice or any governmental agency.

14 Sec. 7. (a) If the director requests a credit report for an
 15 individual described in section 5(b) of this chapter, the individual
 16 to whom the request is made shall pay any fees or costs associated
 17 with procuring the report.

18 (b) The individual must submit personal history and
 19 experience information in a form prescribed by the NMLSR,
 20 including the submission of authorization for the NMLSR or the
 21 director to obtain an independent credit report obtained from a
 22 consumer reporting agency described in Section 603(p) of the Fair
 23 Credit Reporting Act (15 U.S.C. 1681a(p)).

24 (c) The director may consider one (1) or more of the following
 25 when determining if an individual has demonstrated financial
 26 responsibility:

- 27 (1) Bankruptcies filed within the last ten (10) years.
- 28 (2) Current outstanding judgments, except judgments solely
 29 as a result of medical expenses.
- 30 (3) Current outstanding tax liens or other government liens
 31 or filings.
- 32 (4) Foreclosures within the past three (3) years.
- 33 (5) A pattern of serious delinquent accounts within the past
 34 three (3) years.

35 Sec. 8. (a) Each:

- 36 (1) creditor; and
- 37 (2) person that is exempt (either under this article or under
 38 IC 37-2) from licensing and that:
 - 39 (A) employs a licensed mortgage loan originator; or
 - 40 (B) sponsors a licensed mortgage loan originator as
 41 permitted by IC 37-1-1-6(8) or by 750 IAC 9;

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

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

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

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- 1 (3) performing other services that the director determines
2 are necessary for the orderly administration of the
3 department's mortgage licensing system.
- 4 (b) Subject to the confidentiality provisions contained in
5 IC 5-14-3, this section, and IC 28-1-2-30, the director may
6 regularly report significant or recurring violations of this article
7 to the NMLSR.
- 8 (c) Subject to the confidentiality provisions contained in
9 IC 5-14-3, this section, and IC 28-1-2-30, the director may report
10 complaints received regarding mortgage licensees to the NMLSR.
- 11 (d) The director may report publicly adjudicated licensure
12 actions against a licensee to the NMLSR.
- 13 (e) The director shall establish a process in which licensees
14 may challenge information reported to the NMLSR by the
15 department.
- 16 (f) The director's authority to designate the NMLSR under
17 subsection (a) is subject to the following:
- 18 (1) Information stored in the NMLSR is subject to the
19 confidentiality provisions of IC 5-14-3 and IC 28-1-2-30. A
20 person may not:
- 21 (A) obtain information from the NMLSR, unless the
22 person is authorized to do so by statute;
- 23 (B) initiate any civil action based on information
24 obtained from the NMLSR if the information is not
25 otherwise available to the person under any other state
26 law; or
- 27 (C) initiate any civil action based on information
28 obtained from the NMLSR if the person could not have
29 initiated the action based on information otherwise
30 available to the person under any other state law.
- 31 (2) Documents, materials, and other forms of information in
32 the control or possession of the NMLSR that are confidential
33 under IC 28-1-2-30 and that are:
- 34 (A) furnished by the director, the director's designee, or
35 a licensee; or
- 36 (B) otherwise obtained by the NMLSR;
- 37 are confidential and privileged by law and are not subject to
38 inspection under IC 5-14-3, subject to subpoena, subject to
39 discovery, or admissible in evidence in any civil action.
40 However, the director may use the documents, materials, or
41 other information available to the director in furtherance of
42 any action brought in connection with the director's duties

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- 1 under this article.
- 2 **(3) Disclosure of documents, materials, and information:**
- 3 **(A) to the director; or**
- 4 **(B) by the director;**
- 5 under this subsection does not result in a waiver of any
- 6 applicable privilege or claim of confidentiality with respect
- 7 to the documents, materials, or information.
- 8 **(4) Information provided to the NMLSR is subject to**
- 9 **IC 4-1-11.**
- 10 **(5) This subsection does not limit or impair a person's right**
- 11 **to:**
- 12 **(A) obtain information;**
- 13 **(B) use information as evidence in a civil action or**
- 14 **proceeding; or**
- 15 **(C) use information to initiate a civil action or**
- 16 **proceeding;**
- 17 **if the information may be obtained from the director or the**
- 18 **director's designee under any law.**
- 19 **(6) Except as otherwise provided in the federal Housing and**
- 20 **Economic Recovery Act of 2008 (Public Law 110-289,**
- 21 **Section 1512), the requirements under any federal law or**
- 22 **IC 5-14-3 regarding the privacy or confidentiality of any**
- 23 **information or material provided to the NMLSR, and any**
- 24 **privilege arising under federal or state law, including the**
- 25 **rules of any federal or state court, with respect to the**
- 26 **information or material, continue to apply to the information**
- 27 **or material after the information or material has been**
- 28 **disclosed to the NMLSR. The information and material may**
- 29 **be shared with all state and federal regulatory officials with**
- 30 **mortgage industry oversight authority without the loss of**
- 31 **privilege or the loss of confidentiality protections provided**
- 32 **by federal law or IC 5-14-3.**
- 33 **(7) For purposes of this section, the director may enter**
- 34 **agreements or sharing arrangements with other**
- 35 **governmental agencies, the Conference of State Bank**
- 36 **Supervisors, the American Association of Residential**
- 37 **Mortgage Regulators, or other associations representing**
- 38 **governmental agencies, as established by rule or order of the**
- 39 **director.**
- 40 **(8) Information or material that is subject to a privilege or**
- 41 **confidentiality under subdivision (6) is not subject to:**
- 42 **(A) disclosure under any federal or state law governing**

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1 the disclosure to the public of information held by an
 2 officer or an agency of the federal government or the
 3 respective state; or

4 (B) subpoena, discovery, or admission into evidence in
 5 any private civil action or administrative process, unless
 6 with respect to any privilege held by the NMLSR with
 7 respect to the information or material, the person to
 8 whom the information or material pertains waives, in
 9 whole or in part, in the discretion of the person, that
 10 privilege.

11 (9) Any provision of IC 5-14-3 that concerns the disclosure
 12 of:

13 (A) confidential supervisory information; or

14 (B) any information or material described in subdivision
 15 (6);

16 and that is inconsistent with subdivision (6) is superseded by
 17 this section.

18 (10) This section does not apply with respect to information
 19 or material that concerns the employment history of, and
 20 publicly adjudicated disciplinary and enforcement actions
 21 against, a person described in section 5(b) of this chapter and
 22 that is included in the NMLSR for access by the public.

23 (11) The director may require a licensee required to submit
 24 information to the NMLSR to pay a processing fee
 25 considered reasonable by the director. In determining
 26 whether an NMLSR processing fee is reasonable, the
 27 director shall:

28 (A) require review of; and

29 (B) make available;

30 the audited financial statements of the NMLSR.

31 (g) Notwithstanding any other provision of law, any:

32 (1) application, renewal, or other form or document that:

33 (A) relates to mortgage licenses issued by the
 34 department; and

35 (B) is made or produced in an electronic format;

36 (2) document filed as an electronic record in a multistate
 37 automated repository established and operated for the
 38 licensing or registration of mortgage lenders, brokers, or
 39 loan originators; or

40 (3) electronic record filed through the NMLSR;

41 is considered a valid original document when reproduced in paper
 42 form by the department.

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1 **Sec. 10. (a) A mortgage license issued by the department must**
 2 **be renewed through the NMLSR not later than December 31 of**
 3 **each calendar year. The minimum standards for license renewal**
 4 **for a creditor include the following:**

5 **(1) The creditor has continued to meet the surety bond**
 6 **requirement under section 8 of this chapter.**

7 **(2) The creditor has filed the creditor's call report in a**
 8 **manner that satisfies section 19(d) of this chapter.**

9 **(3) The creditor has paid all required fees for renewal of the**
 10 **license.**

11 **(4) The creditor and individuals described in section 5(b) of**
 12 **this chapter have certified to the department that they**
 13 **continue to meet all the standards for licensing contained in**
 14 **section 5 of this chapter.**

15 **(5) The creditor has provided in the creditor's renewal**
 16 **application:**

17 **(A) any information describing material changes in the**
 18 **information contained in the creditor's original**
 19 **application for licensure, or in any previous application,**
 20 **including any previous renewal application; and**

21 **(B) any other information the director requires in order**
 22 **to evaluate the renewal of the license.**

23 **(b) A license issued by the department authorizing a person to**
 24 **engage in first lien mortgage transactions as a creditor under this**
 25 **article may be revoked or suspended by the department if the**
 26 **person fails to:**

27 **(1) file any renewal form required by the department; or**

28 **(2) pay any license renewal fee described under section 5 of**
 29 **this chapter;**

30 **not later than sixty (60) days after the due date.**

31 **(c) A person whose license is revoked or suspended under this**
 32 **section may do either of the following:**

33 **(1) Pay all delinquent fees and apply for reinstatement of the**
 34 **license.**

35 **(2) Appeal the revocation or suspension to the department**
 36 **for an administrative review under IC 4-21.5-3. Pending the**
 37 **decision resulting from the hearing under IC 4-21.5-3**
 38 **concerning the license revocation or suspension, the license**
 39 **remains in force.**

40 **(d) If, at any time, the information or record contained in:**

41 **(1) an original application for licensure filed under section 5**
 42 **of this chapter; or**

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1 (2) a renewal application filed under this section;
 2 is or becomes inaccurate or incomplete in a material respect, the
 3 applicant shall promptly file a correcting amendment with the
 4 department.

5 Sec. 11. (a) The department may issue to a person licensed as
 6 a creditor to engage in first lien mortgage transactions an order to
 7 show cause why the person's license should not be revoked or
 8 suspended for a period determined by the department.

9 (b) An order issued under subsection (a) must:

10 (1) include:

11 (A) a statement of the place, date, and time for a meeting
 12 with the department, which date may not be less than
 13 ten (10) days from the date of the order;

14 (B) a description of the action contemplated by the
 15 department; and

16 (C) a statement of the facts or conduct supporting the
 17 issuance of the order; and

18 (2) be accompanied by a notice stating that the licensee is
 19 entitled to:

20 (A) a reasonable opportunity to be heard; and

21 (B) show the licensee's compliance with all lawful
 22 requirements for retention of the license;

23 at the meeting described in subdivision (1)(A).

24 (c) After the meeting described in subsection (b)(1)(A), the
 25 department may revoke or suspend the license if the department
 26 finds that:

27 (1) the licensee has repeatedly and willfully violated:

28 (A) this article or any applicable rule, order, or guidance
 29 document adopted or issued by the department; or

30 (B) any other state or federal law, regulation, or rule
 31 applicable to first lien mortgage transactions;

32 (2) the licensee does not meet the licensing qualifications
 33 contained in section 5 of this chapter;

34 (3) the licensee obtained the license for the benefit of, or on
 35 behalf of, another person;

36 (4) the licensee knowingly or intentionally made material
 37 misrepresentations to, or concealed material information
 38 from, the department; or

39 (5) facts or conditions exist that, had they existed at the time
 40 the licensee applied for the license, would have been grounds
 41 for the department to deny the issuance of the license.

42 (d) Whenever the department revokes or suspends a license,

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1 the department shall enter an order to that effect and notify the
2 licensee of:

- 3 (1) the revocation or suspension;
4 (2) if a suspension has been ordered, the duration of the
5 suspension;
6 (3) the procedure for appealing the revocation or suspension
7 under IC 4-21.5-3-6; and
8 (4) any other terms and conditions that apply to the
9 revocation or suspension.

10 Not later than five (5) days after the entry of the order, the
11 department shall deliver to the licensee a copy of the order and the
12 findings supporting the order.

13 (e) Any person holding a license as a creditor to engage in first
14 lien mortgage transactions may relinquish the license by notifying
15 the department in writing of the relinquishment. However, a
16 relinquishment under this subsection does not affect the person's
17 liability for acts previously committed and coming within the scope
18 of this article.

19 (f) If the director determines it to be in the public interest, the
20 director may pursue revocation of a license of a licensee that has
21 relinquished the license under subsection (e).

22 (g) If a person's license is revoked, suspended, or relinquished,
23 the revocation, suspension, or relinquishment does not impair or
24 affect any obligation owed by any person under any preexisting
25 lawful contract.

26 (h) If the director has just cause to believe an emergency exists
27 from which it is necessary to protect the interests of the public, the
28 director may proceed with the revocation of a license through an
29 emergency or another temporary order under IC 4-21.5-4.

30 Sec. 12. (a) If the director determines that a current or former
31 director, an officer, or a manager of a creditor:

- 32 (1) has committed a violation of a statute, a rule, a final cease
33 and desist order, any condition imposed in writing by the
34 director in connection with the granting of any application
35 or other request by the creditor, or any written agreement
36 between the creditor and the director or the department;
37 (2) has committed fraudulent or unconscionable conduct; or
38 (3) has been convicted of a felony under the laws of Indiana
39 or any other jurisdiction;

40 the director, subject to subsection (b), may issue and serve upon
41 the officer, director, or manager a notice of the director's intent to
42 issue an order removing the person from the person's office or

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1 employment, an order prohibiting any participation by the person
 2 in the conduct of the affairs of any creditor, or an order both
 3 removing the person and prohibiting the person's participation.

4 (b) A violation, practice, or breach specified in subsection (a)
 5 is subject to the authority of the director under subsections (a) and
 6 (c) if the director finds any of the following:

7 (1) The interests of the creditor's customers could be
 8 seriously prejudiced by reason of the violation or practice.

9 (2) The violation, practice, or breach involves an act of
 10 fraud, dishonesty, theft, breach of trust, money laundering,
 11 or the wrongful taking of property on the part of the officer,
 12 director, or manager involved.

13 (3) The violation, practice, or breach demonstrates a willful
 14 or continuing disregard by the officer, director, or manager
 15 for state and federal laws and regulations, and for the
 16 consumer protections contained in this article.

17 (c) A person who has been convicted of a felony under the laws
 18 of Indiana or any other jurisdiction may not serve as an officer, a
 19 director, or a manager of a creditor, or serve in any similar
 20 capacity, unless the person obtains the written consent of the
 21 director.

22 (d) A creditor that willfully permits a person to serve the
 23 creditor in violation of subsection (c) is subject to a civil penalty of
 24 five hundred dollars (\$500) for each day the violation continues.

25 (e) A creditor shall give the department written notice of the
 26 resignation, discharge, or termination of an employee, independent
 27 contractor, or agent against whom allegations were made that
 28 accused the employee, independent contractor, or agent of:

29 (1) violating this article or other laws, regulations, rules, or
 30 industry standards of conduct applicable to first lien
 31 mortgage transactions; or

32 (2) fraud, dishonesty, theft, breach of trust, money
 33 laundering, or the wrongful taking of property.

34 The creditor shall provide the department the notice required
 35 under this subsection not later than thirty (30) days after the
 36 effective date of the resignation, discharge, or termination.

37 Sec. 13. (a) A notice issued under this chapter must:

38 (1) be in writing;

39 (2) contain a statement of the facts constituting the alleged
 40 practice, violation, or breach;

41 (3) state the facts alleged in support of the violation, practice,
 42 or breach;

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- 1 (4) state the director's intention to enter an order under
 2 section 15(a) of this chapter;
 3 (5) be delivered to the board of directors of the creditor;
 4 (6) be delivered to the officer, director, or manager
 5 concerned;
 6 (7) specify the procedures that must be followed to initiate a
 7 hearing to contest the facts alleged; and
 8 (8) if the director suspends or prohibits an officer, a director,
 9 or a manager of the creditor from participating in the affairs
 10 of the creditor, as described in subsection (e), include a
 11 statement of the suspension or prohibition.

12 (b) If a hearing is requested not later than ten (10) days after
 13 service of the written notice, the department shall hold a hearing
 14 concerning the alleged practice, violation, or breach. The hearing
 15 shall be held not later than forty-five (45) days after receipt of the
 16 request. The department, based on the evidence presented at the
 17 hearing, shall enter a final order under section 15 of this chapter.

18 (c) If no hearing is requested within the time specified in
 19 subsection (b), the director may proceed to issue a final order
 20 under section 15 of this chapter on the basis of the facts set forth in
 21 the written notice.

22 (d) An officer, a director, or a manager who is removed from
 23 a position under a removal order that has become final may not
 24 participate in the conduct of the affairs of any mortgage licensee
 25 without the approval of the director.

26 (e) The director may, for the protection of the creditor or the
 27 interests of its customers, suspend from office or prohibit from
 28 participation in the affairs of the creditor an officer, a director, or
 29 a manager of a creditor who is the subject of a written notice
 30 served by the director under section 12(a) of this chapter. A
 31 suspension or prohibition under this subsection becomes effective
 32 upon service of the notice under section 12(a) of this chapter.
 33 Unless stayed by a court in a proceeding authorized by subsection
 34 (f), the suspension or prohibition remains in effect pending
 35 completion of the proceedings related to the notice served under
 36 section 12(a) of this chapter and until the effective date of an order
 37 entered by the department under subsection (b) or the director
 38 under subsection (c). Copies of the notice shall also be served upon
 39 the creditor or affiliate of which the person is an officer, a director,
 40 or a manager.

41 (f) Not more than fifteen (15) days after an officer, a director,
 42 or a manager has been suspended from office or prohibited from

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1 participation in the conduct of the affairs of the creditor or affiliate
 2 under subsection (e), the officer, director, or manager may apply
 3 to a court having jurisdiction for a stay of the suspension or
 4 prohibition pending completion of the proceedings related to the
 5 written notice served under section 12(a) of this chapter, and the
 6 court may stay the suspension or prohibition.

7 (g) The department shall maintain an official record of a
 8 proceeding under this chapter.

9 Sec. 14. If the director enters into a consent to a final order
 10 under section 15 of this chapter with a creditor, a director, an
 11 officer, or a manager, the director is not required to issue and
 12 serve a notice of charges upon the creditor, director, officer, or
 13 manager under section 12 of this chapter. A consent agreement
 14 may be negotiated and entered into before or after the issuance of
 15 a notice of charges. The director shall provide a copy of the consent
 16 order to the board of directors of the creditor.

17 Sec. 15. (a) If, after a hearing described in section 13(b) of this
 18 chapter, the department finds that the conditions specified in
 19 section 12 of this chapter have been established, the department
 20 may issue a final order. If a hearing is not requested within the
 21 time specified in section 13(b) of this chapter, the director may
 22 issue a final order on the basis of the facts set forth in the written
 23 notice served under section 12(a) of this chapter.

24 (b) Unless the director has entered into a consent agreement
 25 described in section 14 of this chapter, a final order must include
 26 separately stated findings of fact and conclusions of law for all
 27 aspects of the order.

28 (c) In a final order under this section, the department or the
 29 director, as appropriate, may order one (1) or more of the
 30 following with respect to an officer, a director, or a manager of a
 31 creditor:

32 (1) The removal of the officer, director, or manager from the
 33 person's office, position, or employment.

34 (2) A prohibition against any participation by the officer,
 35 director, or manager in the conduct of the affairs of any
 36 creditor.

37 (3) If the subject of the order is an officer or a director of a
 38 creditor, and subject to section 17 of this chapter, the
 39 imposition of a civil penalty not to exceed fifteen thousand
 40 dollars (\$15,000) for each practice, violation, or act that:

41 (A) is described in section 12 of this chapter; and

42 (B) is found to exist by the department or the director.

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1 (d) A final order shall be issued in writing not later than ninety
2 (90) days after conclusion of a hearing held under section 13(b) of
3 this chapter, unless this period is waived or extended with the
4 written consent of all parties or for good cause shown.

5 (e) If the officer, director, or manager does not appear
6 individually or by an authorized representative at a hearing held
7 under section 13(b) of this chapter, the officer, director, or
8 manager is considered to have consented to the issuance of a final
9 order.

10 (f) The remedies provided in this chapter are in addition to
11 other remedies contained in this article.

12 Sec. 16. (a) A final order issued under this chapter is effective
13 on the eleventh day after service of the order. However, a final
14 order issued upon consent under section 14 of this chapter is
15 effective at the time specified in the order.

16 (b) A final order remains effective and enforceable as provided
17 in the order.

18 (c) The department or a reviewing court may stay, modify, or
19 vacate a final order.

20 Sec. 17. (a) The director or the department, as appropriate,
21 shall consider the following factors in determining the amount of
22 a civil penalty that should be assessed against a director or an
23 officer in a final order issued under section 15(c)(3) of this chapter:

24 (1) The appropriateness of the civil penalty with respect to
25 the financial resources and good faith of the individual
26 charged.

27 (2) The gravity of the practice, violation, or act.

28 (3) The history of previous practices, violations, or acts.

29 (4) The economic benefit derived by the individual from the
30 practice, violation, or act.

31 (5) Other factors that justice requires.

32 (b) A creditor may not indemnify a director or an officer for
33 a civil penalty imposed in a final order under section 15(c)(3) of
34 this chapter.

35 (c) Civil penalties shall be deposited in the financial
36 institutions fund established by IC 28-11-2-9.

37 Sec. 18. The director may enforce any of the following by
38 applying for appropriate relief to a court having jurisdiction:

39 (1) An order issued under this chapter.

40 (2) A written agreement entered into by the department or
41 the director and any director, officer, or employee of a
42 creditor.

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1 **(3) Any condition imposed in writing by the department or**
 2 **the director on any director, officer, or employee of a**
 3 **creditor.**

4 **Sec. 19. (a) Every licensee shall maintain records in a manner**
 5 **that will enable the department to determine whether the licensee**
 6 **is complying with this article. The record keeping system of a**
 7 **licensee is sufficient if the licensee makes the required information**
 8 **reasonably available. The department shall determine the**
 9 **sufficiency of the records and whether the licensee has made the**
 10 **required information reasonably available. The department shall**
 11 **be given free access to the records wherever the records are**
 12 **located. Records concerning any first lien mortgage transaction**
 13 **shall be retained for two (2) years after the making of the final**
 14 **entry relating to the transaction, but in the case of a revolving first**
 15 **lien mortgage transaction, the two (2) years required under this**
 16 **subsection is measured from the date of each entry relating to the**
 17 **transaction. A person that voluntarily registers with the**
 18 **department under IC 37-1-1-6(8) for the purpose of sponsoring**
 19 **licensed mortgage loan originators shall:**

20 **(1) cooperate with the department; and**

21 **(2) provide access to records and documents;**

22 **as required by the department in carrying out examinations of the**
 23 **activities of the licensed mortgage loan originators sponsored by**
 24 **the person.**

25 **(b) The unique identifier of any person originating a mortgage**
 26 **transaction must be clearly shown on all mortgage transaction**
 27 **application forms and any other documents as required by the**
 28 **director.**

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

33 **(d) Each:**

34 **(1) creditor licensed to engage in mortgage transactions by**
 35 **the department; and**

36 **(2) person that is exempt from licensing and that:**

37 **(A) employs one (1) or more licensed mortgage loan**
 38 **originators; or**

39 **(B) sponsors one (1) or more licensed mortgage loan**
 40 **originators as permitted by IC 37-1-1-6(8) or by 750**
 41 **IAC 9;**

42 **shall submit to the NMLSR reports of condition, which must be in**

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1 a form and must contain information as required by the NMLSR.

2 (e) Each:

3 (1) creditor licensed by the department to engage in
4 mortgage transactions; and

5 (2) person that is exempt from licensing and that:

6 (A) employs one (1) or more licensed mortgage loan
7 originators; or

8 (B) sponsors one (1) or more licensed mortgage loan
9 originators as permitted by IC 37-1-1-6(8) or by 750
10 IAC 9;

11 shall file with the department additional financial statements
12 relating to all first lien mortgage transactions originated by the
13 licensed creditor or the exempt person as required by the
14 department, but not more frequently than annually, in the form
15 prescribed by the department.

16 (f) A licensed creditor shall file notification with the
17 department if the licensee:

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

19 (2) opens a new branch, closes an existing branch, or
20 relocates an existing branch;

21 (3) files for bankruptcy or reorganization; or

22 (4) is subject to revocation or suspension proceedings by a
23 state or governmental authority with regard to the licensed
24 creditor's activities;

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

27 (g) A licensee shall file notification with the department if the
28 licensee or any director, executive officer, or manager of the
29 licensee has been convicted of a felony under the laws of Indiana or
30 any other jurisdiction. The licensee shall file the notification
31 required by this subsection not later than thirty (30) days after the
32 date of the event described in this subsection.

33 (h) A licensee shall file notification with the department if the
34 licensee or any director, executive officer, or manager of the
35 licensee has had the person's authority to do business in the
36 securities, commodities, banking, financial services, insurance, real
37 estate, or real estate appraisal industry revoked or suspended by
38 Indiana or by any other state, federal, or foreign governmental
39 agency or self-regulatory organization. The licensee shall file the
40 notification required by this subsection not later than thirty (30)
41 days after the date of the event described in this subsection.

42 Sec. 20. (a) As used in this section, "control" means possession

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1 of the power directly or indirectly to:

- 2 (1) direct or cause the direction of the management or
 3 policies of a creditor, whether through the beneficial
 4 ownership of voting securities, by contract, or otherwise; or
 5 (2) vote at least twenty-five percent (25%) of the voting
 6 securities of a creditor, whether the voting rights are derived
 7 through the beneficial ownership of voting securities, by
 8 contract, or otherwise.

9 (b) An organization or an individual acting directly, indirectly,
 10 or through or in concert with one (1) or more other organizations
 11 or individuals may not acquire control of any creditor unless the
 12 department has received and approved an application for change
 13 in control. The department has not more than one hundred twenty
 14 (120) days after receipt of an application to issue a notice
 15 approving the proposed change in control. The application must
 16 contain the name and address of the organization, individual, or
 17 individuals who propose to acquire control and any other
 18 information required by the director.

19 (c) The period for approval under subsection (b) may be
 20 extended:

- 21 (1) in the discretion of the director for an additional thirty
 22 (30) days; and
 23 (2) not more than two (2) additional times for not more than
 24 forty-five (45) days each time if:

25 (A) the director determines that the organization,
 26 individual, or individuals who propose to acquire
 27 control have not submitted substantial evidence of the
 28 qualifications described in subsection (d);

29 (B) the director determines that any material
 30 information submitted is substantially inaccurate; or

31 (C) the director has been unable to complete the
 32 investigation of the organization, individual, or
 33 individuals who propose to acquire control because of
 34 any delay caused by or the inadequate cooperation of
 35 the organization, individual, or individuals.

36 (d) The department shall issue a notice approving the
 37 application only after it is satisfied that both of the following apply:

38 (1) The organization, individual, or individuals who propose
 39 to acquire control are qualified by competence, experience,
 40 character, and financial responsibility to control and operate
 41 the creditor in a legal and proper manner.

42 (2) The interests of the owners and creditors of the creditor

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1 and the interests of the public generally will not be
2 jeopardized by the proposed change in control.

3 (e) The director may determine, in the director's discretion,
4 that subsection (b) does not apply to a transaction if the director
5 determines that the direct or beneficial ownership of the creditor
6 will not change as a result of the transaction.

7 (f) The president or other chief executive officer of a creditor
8 shall report to the director any transfer or sale of securities of the
9 creditor that results in direct or indirect ownership by a holder or
10 an affiliated group of holders of at least ten percent (10%) of the
11 outstanding securities of the creditor. The report required by this
12 subsection must be made not later than ten (10) days after the
13 transfer of the securities on the books of the creditor.

14 (g) Depending on the circumstances of the transaction, the
15 director may reserve the right to require the organization,
16 individual, or individuals who propose to acquire control of a
17 creditor licensed by the department to engage in mortgage
18 transactions, to apply for a new license under section 4 of this
19 chapter, instead of acquiring control of the licensee under this
20 section.

21 Sec. 21. A creditor in a first lien mortgage transaction shall
22 comply with IC 6-1.1-12-43, to the extent applicable.

23 Sec. 22. (a) A violation by a creditor in a first lien mortgage
24 transaction of Section 125 of the Consumer Credit Protection Act
25 (15 U.S.C. 1635) (concerning a debtor's right to rescind a
26 transaction) constitutes a violation of this article. A creditor may
27 not accrue interest during the period when a first lien mortgage
28 transaction may be rescinded under Section 125 of the Consumer
29 Credit Protection Act (15 U.S.C. 1635).

30 (b) A creditor must make available for disbursement the
31 proceeds of a transaction subject to subsection (a) on the later of:

- 32 (1) the date the creditor is reasonably satisfied that the
33 debtor has not rescinded the transaction; or
34 (2) the first business day after the expiration of the rescission
35 period under subsection (a).

36 Sec. 23. A creditor in a first lien mortgage transaction that:

- 37 (1) qualifies as a home equity conversion mortgage under the
38 Federal Housing Administration's program; or
39 (2) otherwise constitutes a reverse mortgage;

40 shall provide the debtor with a pamphlet that is approved by the
41 department and that describes the availability of reverse mortgage
42 counseling services provided by housing counselors approved by

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1 the Secretary of the United States Department of Housing and
 2 Urban Development, as provided in 24 CFR 206.41(a). The debtor
 3 must receive the counseling described in this section and present
 4 the creditor with the certificate described in 24 CFR 206.41(c)
 5 before the creditor may make a first lien mortgage transaction
 6 described in this section to the debtor.

7 **Chapter 4. Administration**

8 **Sec. 1.** This chapter applies to a person that engages as a
 9 creditor in first lien mortgage transactions in Indiana. The
 10 authority of this chapter remains in effect, whether a licensee,
 11 individual, or person subject to this article acts or claims to act
 12 under any licensing or registration law of Indiana or claims to act
 13 without such authority.

14 **Sec. 2. (a)** In addition to other powers granted by this article,
 15 the department within the limitations provided by law may:

16 (1) receive and act on complaints, take action designed to
 17 obtain voluntary compliance with this article, or commence
 18 proceedings on the department's own initiative;

19 (2) counsel persons and groups on their rights and duties
 20 under this article;

21 (3) establish programs for the education of consumers with
 22 respect to credit practices and problems;

23 (4) make studies appropriate to effectuate the purposes and
 24 policies of this article and make the results available to the
 25 public;

26 (5) adopt, amend, and repeal rules, orders, policies, and
 27 forms to carry out the provisions of this article;

28 (6) maintain more than one (1) office within Indiana; and

29 (7) appoint any necessary attorneys, hearing examiners,
 30 clerks, and other employees and agents and fix their
 31 compensation, and authorize attorneys appointed under this
 32 section to appear for and represent the department in court.

33 **(b)** Liability may not be imposed under this article for an act
 34 done or omitted in conformity with a rule, written notice, written
 35 opinion, written interpretation, or written directive of the
 36 department notwithstanding the fact that after the act is done or
 37 omitted the rule, written notice, written opinion, written
 38 interpretation, or written directive may be:

39 (1) amended or repealed; or

40 (2) determined by judicial or other authority to be invalid;

41 for any reason.

42 **Sec. 3. (a)** In administering this article and in order to

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1 determine whether the provisions of this article are being complied
 2 with by persons engaging in acts subject to this article, the
 3 department may examine the records of persons and may make
 4 investigations of persons as may be necessary to determine
 5 compliance. Records subject to examination under this section
 6 include the following:

7 (1) Training, operating, and policy manuals.

8 (2) Minutes of:

9 (A) management meetings; and

10 (B) other meetings.

11 (3) Financial records, credit files, and data bases.

12 (4) Other records that the department determines are
 13 necessary to perform its investigation or examination.

14 The department may also administer oaths or affirmations,
 15 subpoena witnesses, and compel the attendance of witnesses,
 16 including officers, principals, mortgage loan originators,
 17 employees, independent contractors, agents, and customers of
 18 licensees, and other individuals or persons subject to this article.
 19 The department may also adduce evidence and require the
 20 production of any matter that is relevant to an investigation. The
 21 department shall determine the sufficiency of the records
 22 maintained and whether the person has made the required
 23 information reasonably available. The records concerning any
 24 transaction subject to this article shall be retained for two (2) years
 25 after the making of the final entry relating to the first lien
 26 mortgage transaction, but in the case of a revolving first lien
 27 mortgage transaction the two (2) year period is measured from the
 28 date of each entry.

29 (b) The department's examination and investigatory authority
 30 under this article includes the following:

31 (1) The authority to require a creditor to refund overcharges
 32 resulting from the creditor's noncompliance with the terms
 33 of a first lien mortgage transaction.

34 (2) The authority to require a creditor to comply with the
 35 penalty provisions set forth in IC 37-1-3-1.

36 (3) The authority to investigate complaints filed with the
 37 department by debtors.

38 (c) The department shall be given free access to the records
 39 wherever the records are located. In making any examination or
 40 investigation authorized by this article, the director may control
 41 access to any documents and records of the licensee or person
 42 under examination or investigation. The director may take

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1 possession of the documents and records or place a person in
 2 exclusive charge of the documents and records in the place where
 3 the documents are usually kept. During the period of control, a
 4 licensee or person may not remove or attempt to remove any of the
 5 documents and records except under a court order or with the
 6 consent of the director. Unless the director has reasonable grounds
 7 to believe the documents or records of the licensee or person have
 8 been, or are, at risk of being altered or destroyed for purposes of
 9 concealing a violation of this article, the licensee or person shall
 10 have access to the documents or records as necessary to conduct
 11 the licensee's or person's ordinary business affairs. If the person's
 12 records are located outside Indiana, the records shall be made
 13 available to the department at a convenient location within
 14 Indiana, or the person shall pay the reasonable and necessary
 15 expenses for the department or the department's representative to
 16 examine the records where they are maintained. The department
 17 may designate comparable officials of the state in which the
 18 records are located to inspect the records on behalf of the
 19 department.

20 (d) Upon a person's failure without lawful excuse to obey a
 21 subpoena or to give testimony and upon reasonable notice by the
 22 department to all affected persons, the department may apply to
 23 any civil court with jurisdiction for an order compelling
 24 compliance.

25 (e) The department shall not make public:

- 26 (1) the name or identity of a person whose acts or conduct
- 27 the department investigates under this section; or
- 28 (2) the facts discovered in the investigation.

29 However, this subsection does not apply to civil actions or
 30 enforcement proceedings under this article.

31 (f) To discover violations of this article or to secure
 32 information necessary for the enforcement of this article, the
 33 department may investigate any:

- 34 (1) licensee; or
- 35 (2) person that the department suspects to be operating:
 - 36 (A) without a license, when a license is required under
 - 37 this article; or
 - 38 (B) otherwise in violation of this article.

39 The department has all investigatory and enforcement authority
 40 under this article that the department has under IC 28-11 with
 41 respect to financial institutions. If the department conducts an
 42 investigation under this section, the licensee or other person

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1 investigated shall pay all reasonably incurred costs of the
 2 investigation in accordance with the fee schedule adopted under
 3 IC 28-11-3-5. Any costs required to be paid under this section shall
 4 be paid not later than sixty (60) days after the person being
 5 assessed the costs receives a notice from the department of the
 6 costs assessed. The department may impose a fee, in an amount
 7 fixed by the department under IC 28-11-3-5, for each day the
 8 assessed costs are not paid, beginning on the first day after the
 9 sixty (60) day period described in this subsection.

10 (g) If a creditor contracts with an outside vendor to provide a
 11 service that would otherwise be undertaken internally by the
 12 creditor and be subject to the department's routine examination
 13 procedures, the person that provides the service to the creditor
 14 shall, at the request of the director, submit to an examination by
 15 the department. If the director determines that an examination
 16 under this subsection is necessary or desirable, the examination
 17 may be made at the expense of the person to be examined. If the
 18 person to be examined under this subsection refuses to permit the
 19 examination to be made, the director may order any creditor that
 20 is licensed by the department to engage in mortgage transactions
 21 and that receives services from the person refusing the
 22 examination to:

- 23 (1) discontinue receiving one (1) or more services from the
- 24 person; or
- 25 (2) otherwise cease conducting business with the person.

26 Sec. 4. To carry out the purposes of this article, the director
 27 may:

- 28 (1) retain attorneys, accountants, or other professionals and
- 29 specialists as examiners, auditors, or investigators to conduct
- 30 or assist in the conduct of examinations or investigations;
- 31 (2) enter into agreements or relationships with other
- 32 government officials or regulatory associations in order to
- 33 improve efficiencies and reduce regulatory burden by
- 34 sharing:
 - 35 (A) resources;
 - 36 (B) standardized or uniform methods or procedures;
 - 37 and
 - 38 (C) documents, records, information, or evidence
 - 39 obtained under this section;
- 40 (3) use, hire, contract, or employ public or privately
- 41 available analytical systems, methods, or software to
- 42 examine or investigate a licensee, an individual, or a person

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- 1 subject to this article;
- 2 (4) accept and rely on examination or investigation reports
- 3 made by other government officials within or outside
- 4 Indiana; and
- 5 (5) accept audit reports made by an independent certified
- 6 public accountant for the licensee, individual, or person
- 7 subject to this article in the course of that part of the
- 8 examination covering the same general subject matter as the
- 9 audit and may incorporate the audit report in the report of
- 10 the examination, report of investigation, or other writing of
- 11 the director.

12 **Sec. 5. It is a violation of this article for a person or individual**
 13 **subject to this article to:**

- 14 (1) directly or indirectly employ any scheme, device, or
- 15 artifice to defraud or mislead borrowers or lenders or to
- 16 defraud any person;
- 17 (2) engage in any unfair or deceptive practice toward any
- 18 person;
- 19 (3) obtain property by fraud or misrepresentation;
- 20 (4) solicit or enter into a contract with a borrower that
- 21 provides in substance that the person or individual subject to
- 22 this article may earn a fee or commission through "best
- 23 efforts" to obtain a loan even though no loan is actually
- 24 obtained for the borrower;
- 25 (5) solicit, advertise, or enter into a contract for specific
- 26 interest rates, points, or other financing terms unless the
- 27 terms are actually available at the time of soliciting,
- 28 advertising, or contracting;
- 29 (6) conduct any business covered by this article without
- 30 holding a valid license as required under this article, or assist
- 31 or aid and abet any person in the conduct of business under
- 32 this article without a valid license as required under this
- 33 article;
- 34 (7) fail to make disclosures as required by this article or
- 35 regulation adopted under this article and any other
- 36 applicable state or federal law regulation;
- 37 (8) fail to comply with this article or rules adopted under this
- 38 article, or fail to comply with any other state or federal law,
- 39 rule, or regulation, applicable to any business authorized or
- 40 conducted under this article;
- 41 (9) make, in any manner, any false or deceptive statement or
- 42 representation, with regard to the rates, points, or other

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- 1 financing terms or conditions for a mortgage transaction, or
- 2 engage in bait and switch advertising;
- 3 (10) negligently make any false statement or knowingly and
- 4 willfully make any omission of material fact in connection
- 5 with any information or reports filed with a governmental
- 6 agency or the NMLSR or in connection with any
- 7 investigation conducted by the director or another
- 8 governmental agency;
- 9 (11) make any payment, threat, or promise, directly or
- 10 indirectly, to any person for the purposes of influencing the
- 11 independent judgment of the person in connection with a
- 12 mortgage transaction, or make any payment, threat, or
- 13 promise, directly or indirectly, to any appraiser of a
- 14 property, for the purposes of influencing the independent
- 15 judgment of the appraiser with respect to the value of the
- 16 property;
- 17 (12) collect, charge, attempt to collect or charge, or use or
- 18 propose any agreement purporting to collect or charge any
- 19 fee prohibited by this article;
- 20 (13) cause or require a borrower to obtain property
- 21 insurance coverage in an amount that exceeds the
- 22 replacement cost of the improvements as established by the
- 23 property insurer;
- 24 (14) fail to account truthfully for money belonging to a party
- 25 to a mortgage transaction; or
- 26 (15) knowingly withhold, abstract, remove, mutilate, destroy,
- 27 or secrete any books, records, computer records, or other
- 28 information subject to examination under this article.
- 29 Sec. 6. Except as otherwise provided, IC 4-21.5-3 governs any
- 30 action taken by the department under this chapter or IC 37-1-3-4
- 31 through IC 37-1-3-19. IC 4-22-2 applies to the adoption of rules by
- 32 the department under this article. All proceedings for
- 33 administrative review under IC 4-21.5-3 or judicial review under
- 34 IC 4-21.5-5 shall be held in Marion County.
- 35 Sec. 7. (a) After notice and hearing, the department may order
- 36 a creditor or a person acting on behalf of the creditor to cease and
- 37 desist from engaging in violations of this article. In any civil court
- 38 with jurisdiction:
- 39 (1) a respondent aggrieved by an order of the department
- 40 may obtain judicial review of the order; and
- 41 (2) the department may obtain an order of the court for the
- 42 enforcement of the department's order.

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1 A proceeding for review or enforcement under this subsection shall
 2 be initiated by the filing of a petition in the court. Copies of the
 3 petition shall be served upon all parties of record.

4 (b) Not later than thirty (30) days after service of a petition for
 5 review upon the department under subsection (a), or within such
 6 further time as the court may allow, the department shall transmit
 7 to the court the original or a certified copy of the entire record
 8 upon which the order that is the subject of the review is based,
 9 including any transcript of testimony, which need not be printed.
 10 By stipulation of all parties to the review proceeding, the record
 11 may be shortened. After conducting a hearing on the matter, the
 12 court may:

13 (1) reverse or modify the order if the findings of fact of the
 14 department are clearly erroneous in view of the reliable,
 15 probative, and substantial evidence in the whole record;

16 (2) grant any temporary relief or restraining order the court
 17 considers just; and

18 (3) enter an order:

19 (A) enforcing;

20 (B) modifying;

21 (C) enforcing as modified; or

22 (D) setting aside;

23 in whole or in part, the order of the department; or

24 (4) enter an order remanding the case to the department for
 25 further proceedings.

26 (c) An objection not urged at the hearing shall not be
 27 considered by the court unless the failure to urge the objection is
 28 excused for good cause shown. A party may move the court to
 29 remand the case to the department in the interest of justice for the
 30 purpose of:

31 (1) adducing additional specified and material evidence; and

32 (2) seeking a finding upon such evidence;

33 upon good cause shown for the failure to previously adduce this
 34 evidence before the department.

35 (d) The jurisdiction of the court is exclusive and the court's
 36 final judgment or decree is subject to review on appeal in the same
 37 manner and form and with the same effect as in appeals from a
 38 final judgment or decree. The department's copy of the testimony
 39 shall be available at reasonable times to all parties for examination
 40 without cost.

41 (e) A proceeding for review under this section must be
 42 initiated not later than thirty (30) days after a copy of the order of

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1 the department is received. If a proceeding is not initiated within
 2 the time set forth in this subsection, the department may obtain a
 3 decree of a civil court with jurisdiction for enforcement of the
 4 department's order upon a showing that:

- 5 (1) the order was issued in compliance with this section;
- 6 (2) a proceeding for review was not initiated within the thirty
- 7 (30) day period prescribed by this subsection; and
- 8 (3) the respondent is subject to the jurisdiction of the court.

9 (f) With respect to unconscionable agreements or fraudulent
 10 or unconscionable conduct by a respondent, the department may
 11 not issue an order under this section but may bring a civil action
 12 for an injunction under section 12 of this chapter.

13 **Sec. 8.** If it is claimed that a person has engaged in conduct
 14 subject to an order by:

- 15 (1) the department under section 7(a) of this chapter; or
- 16 (2) a court under sections 9 through 11 of this chapter;

17 the department may accept an assurance in writing that the person
 18 will not engage in the conduct in the future. If a person giving an
 19 assurance of discontinuance fails to comply with the terms of the
 20 assurance, the assurance is evidence that before the assurance was
 21 issued the person engaged in the conduct described in the
 22 assurance.

23 **Sec. 9.** The department may bring a civil action to restrain a
 24 person from violating this article or other state or federal law, rule,
 25 or regulation and for other appropriate relief.

26 **Sec. 10.** (a) As used in this section, "deceptive act" means an
 27 act or a practice in which a person knowingly or intentionally:

- 28 (1) makes a material misrepresentation concerning; or
- 29 (2) conceals material information regarding the terms or
- 30 conditions of;

31 a first lien mortgage transaction.

32 (b) For purposes of this section, "knowingly" means having
 33 actual knowledge at the time of the transaction.

34 (c) The department may bring a civil action to enjoin a
 35 deceptive act performed in connection with a first lien mortgage
 36 transaction.

37 **Sec. 11.** With respect to an action brought under:

- 38 (1) section 9 of this chapter to enjoin violations of this article;
- 39 or
- 40 (2) section 10 of this chapter to enjoin deceptive acts;

41 the department may apply to the court for appropriate temporary
 42 relief against a respondent, pending final determination of the

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1 proceedings. If the court finds after a hearing held upon notice to
2 the respondent that there is reasonable cause to believe that the
3 respondent is engaging in or is likely to engage in the conduct
4 sought to be restrained, the court may grant any temporary relief
5 or restraining order the court considers appropriate.

6 Sec. 12. (a) The department may bring a civil action against a
7 creditor or a person acting on behalf of the creditor to recover a
8 civil penalty for willfully violating this article. If the court finds
9 that the defendant has engaged in a course of repeated and willful
10 violations of this article, the court may assess a civil penalty of not
11 more than five thousand dollars (\$5,000). A civil penalty may not
12 be imposed under this subsection:

13 (1) for violations of this article occurring more than two (2)
14 years before the action is brought; or

15 (2) for making unconscionable agreements or engaging in a
16 course of fraudulent or unconscionable conduct.

17 (b) If the department determines, after notice and an
18 opportunity to be heard, that a person has violated this article, the
19 department may, in addition to or instead of all other remedies
20 available under this section, impose upon the person a civil penalty
21 not greater than ten thousand dollars (\$10,000) per violation.

22 (c) If the department determines, after notice and opportunity
23 to be heard, that a person has willfully violated this article, the
24 department may, in addition to or instead of all other remedies
25 available under this section, order restitution against the person
26 subject to this article for a violation of this article.

27 Sec. 13. The grant of powers to the department under this
28 article does not affect remedies available to debtors under this
29 article or under other principles of law or equity.

30 Sec. 14. The department may bring an action or a proceeding
31 in a court in a county:

32 (1) in which an act on which the action or proceeding is
33 based occurred;

34 (2) in which the respondent resides or transacts business; or

35 (3) in which the action or proceeding is otherwise authorized
36 by rule or venue laws.

37 **ARTICLE 2. UNIFORM CONSUMER CREDIT CODE**

38 **Chapter 1. General Provisions**

39 Sec. 0.1. This article must be construed as a recodification of
40 prior law. The enactment of this article by SEA 169-2026 does not
41 affect the substantive operation and effect of the prior law.

42 Sec. 0.3. A contract entered into in accordance with IC 24-4.5

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1 (before its repeal) is considered a contract entered into in
2 accordance with this article.

3 Sec. 0.5. Any document, website, or business communication
4 created in accordance with IC 24-4.5 (before its repeal) is
5 considered a document, website, or business communication
6 created in accordance with this article.

7 Sec. 0.7. (a) A reference in a statute or rule to a statute that is
8 repealed and replaced in the same or a different form in the
9 recodification act of the 2026 regular session of the general
10 assembly is treated after the effective date of the new provision as
11 a reference to the new provision.

12 (b) A citation reference in the recodification act of the 2026
13 regular session of the general assembly to another provision of the
14 recodification act of the 2026 regular session of the general
15 assembly is treated as including a reference to the provision of the
16 uniform consumer credit code that is substantively equivalent to
17 the provision of the recodification act of the 2026 regular session
18 of the general assembly that is referred to by the citation reference.

19 Sec. 1. (a) This article shall be liberally construed and applied
20 to promote the following underlying purposes and policies of this
21 article:

22 (1) To simplify, clarify, and modernize the law governing
23 retail installment sales, consumer credit, small loans, and
24 usury.

25 (2) To provide rate ceilings to assure an adequate supply of
26 credit to consumers.

27 (3) To further consumer understanding of the terms of credit
28 transactions and to foster competition among suppliers of
29 consumer credit so that consumers may obtain credit at
30 reasonable cost.

31 (4) To protect consumer buyers, lessees, and borrowers
32 against unfair practices by some suppliers of consumer
33 credit, having due regard for the interests of legitimate and
34 scrupulous creditors.

35 (5) To permit and encourage the development of fair and
36 economically sound consumer credit practices.

37 (6) To conform the regulation of consumer credit
38 transactions to the policies of the Consumer Credit
39 Protection Act (15 U.S.C. 1601 et seq.) and to applicable state
40 and federal laws, rules, regulations, policies, and guidance.

41 (7) To make uniform the law, including administrative rules,
42 among the various jurisdictions.

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1 (b) A reference to a requirement imposed by this article
2 includes reference to a related rule or guidance of the department
3 adopted pursuant to this article.

4 (c) A reference to a federal law in this article is a reference to
5 the law as in effect December 31, 2024.

6 (d) This article applies to a transaction if the director
7 determines that the transaction:

- 8 (1) is in substance a disguised consumer credit transaction;
- 9 or
- 10 (2) involves the application of subterfuge for the purpose of
- 11 avoiding this article.

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

15 (e) The authority of this article remains in effect, whether a
16 licensee, an individual, or a person subject to this article acts or
17 claims to act under any licensing or registration law of this state,
18 or claims to act without such authority.

19 (f) A violation of a state or federal law, regulation, or rule
20 applicable to consumer credit transactions is a violation of this
21 article.

22 (g) The department may enforce penalty provisions set forth
23 in 15 U.S.C. 1640 for violations of disclosure requirements
24 applicable to mortgage transactions.

25 Sec. 2. Unless displaced by the particular provisions of this
26 article, the Uniform Commercial Code (IC 26-1) and the principles
27 of law and equity (including the law relative to capacity to
28 contract, principal and agent, estoppel, fraud, misrepresentation,
29 duress, coercion, mistake, bankruptcy, or other validating or
30 invalidating cause) shall supplement the provisions of this article.

31 Sec. 3. This article is a general statute intended to provide
32 unified coverage of its subject matter. Subsequent legislation may
33 not be construed to repeal any part of the article by implication if
34 the construction can reasonably be avoided.

35 Sec. 4. The provisions of this article are severable, so that if:
36 (1) any provisions of this article; or
37 (2) the application of this article to any person or
38 circumstances;

39 is held invalid, the invalidity does not affect other provisions or
40 applications of this article that can be given effect without the
41 invalid provision or application.

42 Sec. 5. (a) The dollar amounts in this article designated as

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1 subject to change shall change, as provided in this section,
 2 according to the Consumer Price Index for Urban Wage Earners
 3 and Clerical Workers: U.S. City Average, All Items, 1957-59 equals
 4 100, compiled by Bureau of Labor Statistics, United States
 5 Department of Labor, and referred to in this section as the Index.
 6 The Index for October 1971, is the Reference Base Index.

7 (b) The dollar amounts shall change on January 1 of each
 8 odd-numbered year if the percentage of change, calculated to the
 9 nearest whole percentage point, between the Index at the end of the
 10 preceding odd-numbered year and the Reference Base Index is ten
 11 percent (10%) or more, except that:

12 (1) the portion of the percentage change in the Index in
 13 excess of a multiple of ten percent (10%) shall be
 14 disregarded and the dollar amounts shall change only in
 15 multiples of ten percent (10%) of the amounts on March 5,
 16 1971;

17 (2) the dollar amounts shall not change if the amounts
 18 required by this section are those currently in effect
 19 pursuant to this article as a result of earlier application of
 20 the section; and

21 (3) in no event shall the dollar amounts be reduced below the
 22 amounts appearing in this article on March 5, 1971.

23 (c) If the Index is revised after December 1967, the percentage
 24 of change shall be calculated on the basis of the revised Index. If
 25 the revision of the Index changes the Reference Base Index, a
 26 revised Reference Base Index shall be determined by multiplying
 27 the Reference Base Index by the ratio of the revised Index to the
 28 current Index, as each was for the first month in which the revised
 29 Index is available. If the Index is superseded, the Index is the one
 30 represented by the Bureau of Labor Statistics as reflecting most
 31 accurately changes in the purchasing power of the dollar for
 32 consumers.

33 (d) The department shall issue a rule under IC 4-22-2
 34 announcing:

35 (1) sixty (60) days before January 1 of each odd-numbered
 36 year in which dollar amounts are to change, the changes in
 37 dollar amounts required by subsection (b); and

38 (2) promptly after the changes occur, changes in the Index
 39 required by subsection (c), including, when applicable, the
 40 numerical equivalent of the Reference Base Index under a
 41 revised Reference Base Index and the designation or title of
 42 any index superseding the Index.

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1 (e) A person does not violate this article through a transaction
 2 otherwise complying with this article if the person relies on dollar
 3 amounts either determined according to subsection (b) or
 4 appearing in the last rule of the department announcing the then
 5 current dollar amounts.

6 Sec. 6. (a) Except as otherwise provided in this article, a buyer,
 7 lessee, or debtor may not waive or agree to forego rights or
 8 benefits under this article.

9 (b) A claim by a buyer, lessee, or debtor against a creditor for
 10 an excess charge, other violation of this article, or civil penalty, or
 11 a claim against a buyer, lessee, or debtor for default or breach of
 12 a duty imposed by this article, if disputed in good faith, may be
 13 settled by agreement.

14 (c) A claim, whether or not disputed against a buyer, lessee, or
 15 debtor may be settled for less value than the amount claimed.

16 (d) A settlement in which the buyer, lessee, or debtor waives or
 17 agrees to forego rights or benefits under this article is invalid if the
 18 court as a matter of law finds the settlement to have been
 19 unconscionable at the time it was made. The competence of the
 20 buyer, lessee, or debtor, any deception or coercion practiced upon
 21 the buyer, lessee, or debtor, the nature and extent of the legal
 22 advice received by the buyer, lessee, or debtor, and the value of the
 23 consideration are relevant to the issue of unconscionability.

24 Sec. 7. (a) This article prescribes maximum charges for all
 25 creditors, except lessors and those excluded under section 10 of this
 26 chapter, extending consumer credit, including consumer credit
 27 sales, consumer loans, and consumer related sales and loans, and
 28 displaces existing limitations on the powers of those creditors based
 29 on maximum charges.

30 (b) With respect to sellers of goods or services, small loan
 31 companies, licensed lenders, consumer and sales finance
 32 companies, industrial loan and investment companies, and
 33 commercial banks and trust companies, this article displaces
 34 existing limitations on their powers based solely on amount or
 35 duration of credit.

36 (c) Except as provided in subsection (a) and IC 24-4.6-1, this
 37 article does not displace limitations on powers of credit unions,
 38 savings banks, savings or building and loan associations, or other
 39 thrift institutions whether organized for the profit of shareholders
 40 or as mutual organizations.

41 (d) Except as provided in subsections (a) and (b), this article
 42 does not displace:

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1 (1) limitations on powers of depository institutions with
 2 respect to the amount of a loan to a single borrower, the
 3 ratio of a loan to the value of collateral, the duration of a
 4 loan that is a mortgage transaction, or other similar
 5 restrictions designed to protect deposits; or

6 (2) limitations on powers an organization is authorized to
 7 exercise under the laws of this state or the United States.

8 **Sec. 8. All persons licensed on October 1, 1971, under:**

9 (1) IC 24-5-4 (before its repeal on October 1, 1971);

10 (2) IC 28-7-4 (before its repeal on October 1, 1971);

11 (3) IC 28-7-2 (before its repeal on October 1, 1971); or

12 (4) IC 28-5-1-4;

13 are licensed to make supervised loans under this article, subject to
 14 the renewal provisions contained in this article. All provisions of
 15 this article apply to the persons previously licensed or authorized.
 16 The department may deliver evidence of licensing to the persons
 17 previously licensed or authorized.

18 **Sec. 9. (a) Except as otherwise provided in this section, this**
 19 **article applies to sales, leases, and loans made in this state and to**
 20 **modifications, including refinancings, consolidations, and**
 21 **deferrals, made in this state, of sales, leases, and loans, wherever**
 22 **made. For purposes of this article, the following apply:**

23 (1) A sale or modification of a sale agreement is made in this
 24 state if the buyer's agreement or offer to purchase or to
 25 modify is received by the seller or a person acting on behalf
 26 of the seller in this state.

27 (2) A lease or modification of a lease agreement is made in
 28 this state if the lessee's agreement or offer to lease or to
 29 modify is received by the lessor or a person acting on behalf
 30 of the lessor in this state.

31 (3) A loan or modification of a loan agreement is made in this
 32 state if a writing signed by the debtor and evidencing the
 33 debt is received by the lender or a person acting on behalf of
 34 the lender in this state.

35 (4) Except as provided in subdivisions (5) and (6), a sale,
 36 lease, or loan transaction occurs in Indiana if a consumer
 37 who is a resident of Indiana enters into a consumer sale,
 38 lease, or loan transaction with a creditor or a person acting
 39 on behalf of the creditor in another state and the creditor or
 40 the person acting on behalf of the creditor has advertised or
 41 solicited sales, leases, or loans in Indiana by any means,
 42 including by mail, brochure, telephone, print, radio,

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1 television, the Internet, or electronic means.

2 (5) A sale, lease, or loan transaction does not occur in
3 Indiana if a consumer who is a resident of Indiana enters
4 into a consumer sale, lease, or loan transaction secured by an
5 interest in land located outside Indiana.

6 (6) A sale, lease, or loan transaction does not occur in
7 Indiana if a consumer who is a resident of Indiana enters
8 into a consumer sale, lease, or loan transaction at a creditor's
9 place of business in another state.

10 For purposes of subdivisions (1) through (4), an offer is received by
11 a creditor or a person acting on behalf of the creditor in Indiana if
12 the offer is physically delivered, or otherwise transmitted or
13 communicated, to a person who has actual or apparent authority
14 to act for the creditor or the person acting on behalf of the creditor
15 in Indiana, regardless of whether approval, acceptance, or
16 ratification by any other agent or representative of the creditor or
17 the person acting on behalf of the creditor in another state is
18 necessary to give legal consequence to the consumer credit
19 transaction.

20 (b) IC 37-2-6-1 through IC 37-2-6-7 apply to actions or other
21 proceedings brought in this state to enforce rights arising from
22 consumer credit sales, consumer leases, or consumer loans, or
23 extortionate extensions of credit, wherever made.

24 (c) Except as provided in subsection (b), a sale, lease, loan, or
25 modification thereof, made in another state to a person who was
26 not a resident of this state when the sale, lease, loan, or
27 modification was made is valid and enforceable in this state
28 according to its terms to the extent that it is valid and enforceable
29 under the laws of the state applicable to the transaction.

30 (d) For the purposes of this article, the residence of a buyer,
31 lessee, or debtor is the address given by the buyer, lessee, or debtor
32 as the buyer's, lessee's, or debtor's residence in any writing or
33 electronic communication made by the buyer, lessee, or debtor in
34 connection with a credit transaction. Until the buyer, lessee, or
35 debtor notifies the creditor or the person acting on behalf of the
36 creditor of a new or different address, the given address is
37 presumed to be unchanged.

38 (e) Notwithstanding other provisions of this section:

39 (1) except as provided in subsection (b), this article does not
40 apply if the buyer, lessee, or debtor is not a resident of this
41 state at the time of a credit transaction and the parties then
42 agree that the law of the buyer's, lessee's, or debtor's

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- 1 residence applies; and
- 2 (2) this article applies if the buyer, lessee, or debtor is a
- 3 resident of this state at the time of a credit transaction and
- 4 the parties then agree that the law of this state applies.
- 5 (f) Except as provided in subsection (e), the following
- 6 agreements by a buyer, lessee, or debtor are invalid with respect to
- 7 consumer credit sales, consumer leases, consumer loans, or
- 8 modifications thereof, to which this article applies:
- 9 (1) An agreement that the law of another state shall apply.
- 10 (2) An agreement that the buyer, lessee, or debtor consents
- 11 to the jurisdiction of another state.
- 12 (3) An agreement that fixes venue.
- 13 (g) The following provisions of this article specify the
- 14 applicable law governing certain cases:
- 15 (1) IC 37-2-7-1 (applicability of the provisions on powers and
- 16 functions of the department).
- 17 (2) IC 37-2-7-24 (applicability of the provisions on
- 18 notification and fees).
- 19 (h) If a creditor or a person acting on behalf of the creditor has
- 20 violated the provisions of this article that apply to the authority to
- 21 make consumer loans (IC 37-2-4-23), the loan is void and the
- 22 debtor is not obligated to pay either the principal or loan finance
- 23 charge, as set forth in IC 37-2-6-9.
- 24 **Sec. 10. This article does not apply to the following:**
- 25 (1) Extensions of credit to or by a government or
- 26 governmental agencies or instrumentalities.
- 27 (2) The sale of insurance by an insurer, except as otherwise
- 28 provided in the chapter on insurance (IC 37-2-5).
- 29 (3) Transactions under public utility, municipal utility, or
- 30 common carrier tariffs if a subdivision or agency of this state
- 31 or of the United States regulates the charges for the services
- 32 involved, the charges for delayed payment, and any discount
- 33 allowed for early payment.
- 34 (4) The rates and charges and the disclosure of rates and
- 35 charges of a licensed pawnbroker established in accordance
- 36 with a statute or ordinance concerning these matters.
- 37 (5) A sale of goods, services, or an interest in land in which
- 38 the goods, services, or interest in land are purchased
- 39 primarily for a purpose other than a personal, family, or
- 40 household purpose.
- 41 (6) A loan in which the debt is incurred primarily for a
- 42 purpose other than a personal, family, or household purpose.

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- 1 (7) An extension of credit primarily for a business, a
 2 commercial, or an agricultural purpose.
 3 (8) An installment agreement for the purchase of home fuels
 4 in which a finance charge is not imposed.
 5 (9) Loans made, insured, or guaranteed under a program
 6 authorized by Title IV of the Higher Education Act of 1965
 7 (20 U.S.C. 1070 et seq.).
 8 (10) Transactions in securities or commodities accounts in
 9 which credit is extended by a broker-dealer registered with
 10 the Securities and Exchange Commission or the Commodity
 11 Futures Trading Commission.
 12 (11) Except for IC 37-2-4-24(d), IC 37-2-4-29,
 13 IC 37-2-4-33(d), and IC 37-2-4-33(e), a loan made:
 14 (A) in compliance with the requirements of; and
 15 (B) by a community development corporation (as
 16 defined in IC 4-4-28-2) acting as a subrecipient of funds
 17 from;
 18 the Indiana housing and community development authority
 19 established by IC 5-20-1-3.
 20 (12) Except for IC 37-2-4-24(d), IC 37-2-4-29,
 21 IC 37-2-4-33(d), and IC 37-2-4-33(e), a subordinate lien
 22 mortgage transaction made by an entity that exclusively uses
 23 funds provided by the United States Department of Housing
 24 and Urban Development under Title 1 of the Housing and
 25 Community Development Act of 1974, Public Law 93-383, as
 26 amended (42 U.S.C. 5301 et seq.).
 27 (13) The United States, any state or local government, or any
 28 agency or instrumentality of any governmental entity,
 29 including United States government sponsored enterprises
 30 and state educational institutions (as defined in
 31 IC 21-7-13-32). For purposes of this subdivision, an
 32 "instrumentality" of a governmental entity includes a
 33 foundation, a corporate or nonprofit subsidiary, or an
 34 affiliate of the governmental entity.
 35 (14) 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
 39 only 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) A bona fide nonprofit organization 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.

(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.

Sec. 11. In examinations or other regulatory activities conducted by the department and related to licensees under this article, the department may cooperate with the Indiana securities commissioner in the regulation of individuals who, in addition to

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1 conducting business regulated under this article, also conduct a
2 loan broker business subject to IC 23-2.5.

3 **Chapter 2. Definitions**

4 **Sec. 1. The definitions set forth in this chapter apply**
5 **throughout this article:**

6 **Sec. 2. "Affiliate", with respect to any person subject to this**
7 **article, means a person that, directly or indirectly, through one (1)**
8 **or more intermediaries:**

- 9 (1) controls;
- 10 (2) is controlled by; or
- 11 (3) is under common control with;

12 the person subject to this article.

13 **Sec. 2.5. "Amount financed" means the total of the following**
14 **to the extent that payment is deferred:**

- 15 (1) The cash price of the goods, services, or interest in land
16 less the amount of down payment whether made in cash or
17 property.
- 18 (2) The amount actually paid or to be paid by the seller
19 pursuant to an agreement with the buyer to discharge a
20 security interest or lien on property traded in.
- 21 (3) If not included in the cash price:
 - 22 (A) any applicable sales, use, excise or documentary
23 fees;
 - 24 (B) amounts actually paid or to be paid by the seller for
25 registration, certificate of title, or license fees; and
 - 26 (C) additional charges permitted by IC 37-2-3-5.

27 **Sec. 3. "Agreement" means the bargain of the parties in fact**
28 **as found in their language or by implication from other**
29 **circumstances, including course of dealing or usage of trade or**
30 **course of performance.**

31 **Sec. 4. "Agricultural purpose" means a purpose related to the**
32 **production, harvest, exhibition, marketing, transportation,**
33 **processing, or manufacture of agricultural products by a natural**
34 **person who cultivates, plants, propagates, or nurtures the**
35 **agricultural products. "Agricultural products" includes**
36 **agricultural, horticultural, viticultural, and dairy products,**
37 **livestock, wildlife, poultry, bees, forest products, fish and shellfish,**
38 **and any and all products raised or produced on farms and any**
39 **processed or manufactured products thereof.**

40 **Sec. 5. "Average daily balance" means the sum of each of the**
41 **daily balances in a billing cycle divided by the number of days in**
42 **the billing cycle, and if the billing cycle is a month, the creditor**

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1 may elect to treat the number of days in each billing cycle as thirty
2 (30).

3 **Sec. 6. "Balloon payment", with respect to a mortgage**
4 **transaction, means any payment that:**

5 (1) the creditor requires the debtor to make at any time
6 during the term of the mortgage;

7 (2) represents the entire amount of the outstanding balance
8 with respect to the mortgage; and

9 (3) the entire amount of which is due as of a specified date or
10 at the end of a specified period;

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

20 **Sec. 7. "Bona fide nonprofit organization" means an**
21 **organization that does the following, as determined by the director**
22 **under criteria established by the director:**

23 (1) Maintains tax exempt status under Section 501(c)(3) of
24 the Internal Revenue Code.

25 (2) Promotes affordable housing or provides home ownership
26 education or similar services.

27 (3) Conducts the organization's activities in a manner that
28 serves public or charitable purposes.

29 (4) Receives funding and revenue and charges fees in a
30 manner that does not encourage the organization or the
31 organization's employees to act other than in the best
32 interests of the organization's clients.

33 (5) Compensates the organization's employees in a manner
34 that does not encourage employees to act other than in the
35 best interests of the organization's clients.

36 (6) Provides to, or identifies for, debtors mortgage
37 transactions with terms that are favorable to the debtor (as
38 described in IC 37-2-1-10(15)) and comparable to mortgage
39 transactions and housing assistance provided under
40 government housing assistance programs.

41 (7) Maintains certification by the United States Department
42 of Housing and Urban Development or employs counselors

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- 1 who are certified by the Indiana housing and community
2 development authority.
- 3 **Sec. 7.5. "Cash price"** means the price at which the goods,
4 services, or interest in land are offered for sale by the seller to cash
5 buyers in the ordinary course of business, and may include:
- 6 (1) applicable sales, use, and excise and documentary fees;
7 (2) the cash price of accessories or related services such as
8 delivery, installation, servicing, repairs, alterations, service
9 contracts, and improvements; and
10 (3) amounts actually paid or to be paid by the seller for
11 registration, certificate of title, or license fees.
- 12 **Sec. 7.7. "Civil court"** means any court of Indiana having civil
13 jurisdiction.
- 14 **Sec. 8. "Closing costs"** with respect to a subordinate lien
15 mortgage transaction includes:
- 16 (1) fees or premiums for title examination, title insurance, or
17 similar purposes, including surveys;
18 (2) fees for preparation of a deed, settlement statement, or
19 other documents;
20 (3) escrows for future payments of taxes and insurance;
21 (4) fees for notarizing deeds and other documents;
22 (5) appraisal fees; and
23 (6) fees for credit reports.
- 24 **Sec. 9. "Conspicuous"** refers to a term or clause when it is so
25 written that a reasonable person against whom it is to operate
26 ought to have noticed it.
- 27 **Sec. 10. "Consumer credit"** means credit offered or extended
28 to a consumer primarily for a personal, family, or household
29 purpose.
- 30 **Sec. 10.5. "Consumer credit insurance"** means insurance,
31 other than insurance on property, by which the satisfaction of debt
32 in whole or in part is a benefit provided, but does not include:
- 33 (1) insurance issued as an isolated transaction on the part of
34 the insurer not related to an agreement or plan for insuring
35 debtors of the creditor; or
36 (2) insurance indemnifying the creditor against loss due to
37 the debtor's default.
- 38 **Sec. 11. "Consumer Credit Protection Act"** refers to the
39 Consumer Credit Protection Act (15 U.S.C. 1601 et seq.), as
40 amended, and includes both the Truth in Lending Simplification
41 and Reform Act amendments (Public Law 96-221, Title VI, 94 Stat.
42 168) and any regulations issued under those laws. However, the

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1 department may otherwise define this term by rule issued in
2 accordance with IC 37-2-7-7.

3 **Sec. 12. "Consumer credit sale" is a sale of goods, services, or**
4 **an interest in land in which:**

5 (1) credit is granted by a person who regularly engages as a
6 seller in credit transactions of the same kind;

7 (2) the buyer is a person other than an organization;

8 (3) the goods, services, or interest in land are purchased
9 primarily for a personal, family, or household purpose;

10 (4) either the debt is payable in installments or a credit
11 service charge is made; and

12 (5) with respect to a sale of goods or services, either:

13 (A) the amount of credit extended, the written credit
14 limit, or the initial advance does not exceed the exempt
15 threshold amount, as adjusted in accordance with the
16 annual adjustment of the exempt threshold amount,
17 specified in Regulation Z (12 CFR 226.3 or 12 CFR
18 1026.3(b), as applicable); or

19 (B) the debt is secured by personal property used or
20 expected to be used as the principal dwelling of the
21 buyer.

22 Unless the sale is made subject to this article by agreement
23 under IC 37-2-3-29, "consumer credit sale" does not include
24 a sale in which the seller allows the buyer to purchase goods
25 or services pursuant to a lender credit card or similar
26 arrangement or, except as provided with respect to
27 disclosure (IC 37-2-3-13), debtors' remedies (IC 37-2-6-8),
28 providing payoff amounts (IC 37-2-3-11), and powers and
29 functions of the department (IC 37-2-7), a sale of an interest
30 in land which is a first lien mortgage transaction.

31 **Sec. 12.5. "Consumer lease" means a lease of goods:**

32 (1) which a lessor regularly engaged in the business of leasing
33 makes to a person, other than an organization, who takes
34 under the lease primarily for a personal, family, or
35 household purpose;

36 (2) in which the amount payable under the lease does not
37 exceed the exempt threshold amount, as adjusted in
38 accordance with the annual adjustment of the exempt
39 threshold amount, specified in Regulation Z (12 CFR 226.3
40 or 12 CFR 1026.3(b), as applicable); and

41 (3) which is for a term exceeding four (4) months.

42 The term does not include a lease made pursuant to a lender credit

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1 card or similar arrangement.

2 Sec. 13. "Consumer loan" means a loan made by a person
3 regularly engaged in the business of making loans in which:

- 4 (1) the debtor is a person other than an organization;
5 (2) the debt is primarily for a personal, family, or household
6 purpose;
7 (3) either the debt is payable in installments or a loan finance
8 charge is made; and
9 (4) either:

10 (A) the amount of credit extended, the written credit
11 limit, or the initial advance does not exceed the exempt
12 threshold amount, as adjusted in accordance with the
13 annual adjustment of the exempt threshold amount,
14 specified in Regulation Z (12 CFR 226.3 or 12 CFR
15 1026.3(b), as applicable); or

16 (B) the debt is secured by an interest in land or by
17 personal property used or expected to be used as the
18 principal dwelling of the debtor.

19 Except as described in IC 37-2-4-2, the term does not include a first
20 lien mortgage transaction.

21 Sec. 13.3. "Consumer related loan" refers to a loan in which
22 the following apply:

- 23 (1) The loan is made by a person who is not regularly
24 engaged as a lender in credit transactions of the same kind.
25 (2) The debtor is a person other than an organization.
26 (3) The debt is primarily for a personal, family, or household
27 purpose.
28 (4) Either the debt is payable in installments or a loan
29 finance charge is made.
30 (5) Either:

31 (A) the amount of credit extended, the written credit
32 limit, or the initial advance does not exceed the exempt
33 threshold amount, as adjusted in accordance with the
34 annual adjustment of the exempt threshold amount,
35 specified in Regulation Z (12 CFR 226.3 or 12 CFR
36 1026.3(b), as applicable); or

37 (B) the debt is secured by an interest in land or by
38 personal property used or expected to be used as the
39 principal dwelling of the debtor.

40 Sec. 13.5. "Consumer related sale" means a sale of goods,
41 services, or an interest in land in which:

- 42 (1) credit is granted by a person that is not regularly engaged

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- 1 as a seller in credit transactions of the same kind;
- 2 (2) the buyer is a person other than an organization;
- 3 (3) the goods, services, or interest in land are purchased
- 4 primarily for a personal, family, or household purpose;
- 5 (4) either the debt is payable in installments or a credit
- 6 service charge is made; and
- 7 (5) with respect to a sale of goods or services:
 - 8 (A) either the amount of credit extended, the written
 - 9 credit limit, or the initial advance does not exceed the
 - 10 exempt threshold amount, as adjusted in accordance
 - 11 with the annual adjustment of the exempt threshold
 - 12 amount, specified in Regulation Z (12 CFR 226.3 or 12
 - 13 CFR 1026.3(b), as applicable); or
 - 14 (B) the debt is secured by personal property used or
 - 15 expected to be used as the principal dwelling of the
 - 16 buyer.

17 **Sec. 14. "Credit" means the right granted by a creditor to a**
 18 **debtor to defer payment of debt or to incur debt and defer its**
 19 **payment.**

20 **Sec. 14.5. "Credit service charge" means the sum of:**

- 21 (1) all charges payable directly or indirectly by the buyer
- 22 and imposed directly or indirectly by the seller as an incident
- 23 to the extension of credit, including any of the following types
- 24 of charges which are applicable: time price differential,
- 25 service, carrying or other charge, however denominated,
- 26 premium or other charge for any guarantee or insurance
- 27 protecting the seller against the buyer's default or other
- 28 credit loss; and

- 29 (2) charges incurred for investigating the collateral or
- 30 credit-worthiness of the buyer.

31 **The term does not include charges as a result of default, additional**
 32 **charges (IC 37-2-3-5), delinquency charges (IC 37-2-3-6), or**
 33 **deferral charges (IC 37-2-3-7). The term does not include charges**
 34 **paid or payable to a third party that are not required by the seller**
 35 **as a condition or incident to the extension of credit except for**
 36 **borrower paid mortgage broker fees, including fees paid directly**
 37 **to the broker or the seller (for delivery to the broker), whether the**
 38 **fees are paid in cash or financed. However, borrower paid**
 39 **mortgage broker fees do not include fees paid to a mortgage broker**
 40 **by a creditor, including yield spread premiums and service release**
 41 **fees.**

42 **Sec. 15. "Creditor" means a person:**

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1 (1) who regularly engages in the extension of consumer
 2 credit that is subject to a credit service charge or loan
 3 finance charge, as applicable, or is payable by written
 4 agreement in more than four (4) installments (not including
 5 a down payment); and

6 (2) to whom the obligation is initially payable, either on the
 7 face of the note or contract, or by agreement when there is
 8 not a note or contract.

9 **Sec. 15.5. "Debt cancellation agreement"** means an agreement
 10 that provides coverage for payment or satisfaction of all or part of
 11 a debt in the event of the loss of life, health, or income. The term
 12 does not include a GAP agreement.

13 **Sec. 15.7. "Department"** refers to the department of financial
 14 institutions.

15 **Sec. 16. "Depository institution"** has the meaning set forth in
 16 the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes
 17 any credit union.

18 **Sec. 17. "Director"** means the director of the department of
 19 financial institutions or the director's designee.

20 **Sec. 18. "Dwelling"** means a residential structure that contains
 21 one (1) to four (4) units, regardless of whether the structure is
 22 attached to real property. The term includes an individual:

- 23 (1) condominium unit;
- 24 (2) cooperative unit;
- 25 (3) mobile home; or
- 26 (4) trailer;

27 that is used as a residence.

28 **Sec. 19. "Earnings"** means compensation paid or payable for
 29 personal services, whether denominated as wages, salary,
 30 commission, bonus, or otherwise, and includes periodic payments
 31 under a pension or retirement program.

32 **Sec. 20. "Employee"** means an individual who is paid wages or
 33 other compensation by an employer required under federal income
 34 tax law to file Form W-2 on behalf of the individual.

35 **Sec. 20.5. "Expedited payment service"** means a service
 36 offered to a consumer to ensure that a payment made by the
 37 consumer with respect to a consumer credit sale or a consumer
 38 loan will be reflected as paid and posted on an expedited basis.

39 **Sec. 21. "Federal banking agencies"** means the Board of
 40 Governors of the Federal Reserve System, the Office of the
 41 Comptroller of the Currency, the National Credit Union
 42 Administration, and the Federal Deposit Insurance Corporation.

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1 **Sec. 21.5. "First lien mortgage transaction" means:**

- 2 (1) a consumer loan; or
3 (2) a consumer credit sale;

4 that is or will be used by the debtor primarily for personal, family,
5 or 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) that constitutes a first lien on a
8 dwelling or on residential real estate upon which a dwelling is
9 constructed or intended to be constructed.

10 **Sec. 22. "Guaranteed asset protection agreement",**
11 **"guaranteed auto protection agreement", or "GAP agreement"**
12 **means, with respect to a consumer credit sale or a consumer loan**
13 **involving a motor vehicle or another titled asset, an agreement in**
14 **which the seller or lender agrees to cancel or waive all or part of**
15 **the outstanding debt after all property insurance benefits have**
16 **been exhausted after the occurrence of a specified event.**

17 **Sec. 22.5. "Goods" includes goods not in existence at the time**
18 **the transaction is entered into and merchandise certificates, but**
19 **excludes money, chattel paper, documents of title, and instruments.**

20 **Sec. 22.7. "Home solicitation sale" means a consumer credit**
21 **sale of goods, other than farm equipment, or services in which:**

- 22 (1) the seller or a person acting for the seller engages in a
23 personal solicitation of the sale, including a solicitation over
24 the telephone, at a residence of the buyer and the buyer's
25 agreement or offer to purchase is there given to the seller or
26 a person acting for the seller; or
27 (2) the seller or the seller's agent, solicits a sale in a city or
28 town in which the seller does not have a permanent business
29 establishment, through mailings, advertisements, or
30 telephone calls, which require the buyer to meet the seller or
31 the seller's agent at a place other than the seller's permanent
32 business establishment.

33 **The term does not include a sale made pursuant to a preexisting**
34 **revolving charge account, or a sale made pursuant to prior**
35 **negotiations between the parties at a business establishment at a**
36 **fixed location where goods or services are offered or exhibited for**
37 **sale.**

38 **Sec. 23. "Immediate family member" means a spouse, child,**
39 **sibling, parent, grandparent, or grandchild. The term includes**
40 **stepparents, stepchildren, stepsiblings, and adoptive relationships.**

41 **Sec. 24. "Individual" means a natural person.**

42 **Sec. 25. "Land contract" means a contract for the sale of real**

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

3 **Sec. 25.5.** Except as otherwise provided, "lender" means a
4 person regularly engaged in making consumer loans. The term
5 includes an assignee of the lender's right to payment but use of the
6 term does not in itself impose on an assignee any obligation of the
7 lender with respect to events occurring before the assignment.

8 **Sec. 26.** "Lender credit card or similar arrangement" means
9 an arrangement or loan agreement, other than a seller credit card,
10 pursuant to which a lender gives a debtor the privilege of using a
11 credit card, letter of credit, or other credit confirmation or
12 identification in transactions out of which debt arises:

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

15 (2) by the lender's payment or agreement to pay the debtor's
16 obligations; or

17 (3) by the lender's purchase from the obligee of the debtor's
18 obligations.

19 **Sec. 27.** "Licensee" means a person licensed as a creditor
20 under this article.

21 **Sec. 27.5.** "Loan" includes:

22 (1) the creation of debt by the lender's payment of or
23 agreement to pay money to the debtor or to a third party for
24 the account of the debtor;

25 (2) the creation of debt by a credit to an account with the
26 lender upon which the debtor is entitled to draw
27 immediately;

28 (3) the creation of debt pursuant to a lender credit card or
29 similar arrangement; and

30 (4) the forbearance of debt arising from a loan.

31 **Sec. 28.** "Loan brokerage business" means any activity in
32 which a person, in return for any consideration from any source,
33 procures, attempts to procure, or assists in procuring, a mortgage
34 transaction from a third party or any other person, whether or not
35 the person seeking the mortgage transaction actually obtains the
36 mortgage transaction.

37 **Sec. 28.5. (a)** "Loan finance charge" means the sum of:

38 (1) all charges payable directly or indirectly by the debtor
39 and imposed directly or indirectly by the lender as an
40 incident to the extension of credit, including any of the
41 following types of charges which are applicable: interest or
42 any amount payable under a point, discount, or other system

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1 of charges, however denominated, premium or other charge
 2 for any guarantee or insurance protecting the lender against
 3 the debtor's default or other credit loss; and

4 (2) charges incurred for investigating the collateral or
 5 credit-worthiness of the debtor.

6 The term does not include charges as a result of default, additional
 7 charges (IC 37-2-4-5), delinquency charges (IC 37-2-4-6), or
 8 deferral charges (IC 37-3-4-7). The term does not include charges
 9 paid or payable to a third party that are not required by the lender
 10 as a condition or incident to the extension of credit except for
 11 borrower paid mortgage broker fees, including fees paid directly
 12 to the broker or the lender (for delivery to the broker), whether the
 13 fees are paid in cash or financed. However, borrower paid
 14 mortgage broker fees do not include fees paid to a mortgage broker
 15 by a creditor, including yield spread premiums and service release
 16 fees.

17 (b) If a lender makes a loan to a debtor by purchasing or
 18 satisfying obligations of the debtor pursuant to a lender credit card
 19 or similar arrangement, and the purchase or satisfaction is made
 20 at less than the face amount of the obligation, the discount is not
 21 part of the loan finance charge.

22 Sec. 29. "Loan processor or underwriter" means an individual
 23 who performs clerical or support duties as an employee at the
 24 direction of, and subject to the supervision and instruction of, a
 25 person licensed to engage in mortgage transactions or a person
 26 exempt from licensing. For purposes of this subdivision, the term
 27 "clerical or support duties" may include, after the receipt of an
 28 application, the following:

29 (1) The receipt, collection, distribution, and analysis of
 30 information common for the processing or underwriting of
 31 a mortgage transaction.

32 (2) The communication with a consumer to obtain the
 33 information necessary for the processing or underwriting of
 34 a loan, to the extent that the communication does not
 35 include:

36 (A) offering or negotiating loan rates or terms; or

37 (B) counseling consumers about mortgage transaction
 38 rates or terms.

39 The term "loan processor or underwriter" does not include an
 40 individual who is an employee of a person that is not engaged in
 41 mortgage transactions as a creditor if that person is permitted to
 42 voluntarily register with the department to sponsor the individual

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1 under IC 37-1-1-6(8) to engage solely in the activities described in
 2 this subdivision. An individual engaging solely in loan processor or
 3 underwriter activities shall not represent to the public through
 4 advertising or other means of communicating or providing
 5 information, including the use of business cards, stationery,
 6 brochures, signs, rate lists, or other promotional items, that the
 7 individual can or will perform any of the activities of a mortgage
 8 loan originator. However, an individual who is licensed as a
 9 mortgage loan originator under IC 37-1 and 750 IAC 9-3, and who
 10 is sponsored by a person, as permitted by IC 37-1-1-6(8), to engage
 11 solely as a third party loan processor or underwriter, is subject to
 12 the prohibition set forth in this subdivision with respect to the
 13 individual's engagement under the sponsorship.

14 Sec. 29.5. "Merchandise certificate" means a writing issued by
 15 a seller not redeemable in cash and usable in its face amount in lieu
 16 of cash in exchange for goods or services.

17 Sec. 30. "Mortgage loan originator" means an individual who,
 18 for compensation or gain, or in the expectation of compensation or
 19 gain, regularly engages in taking a mortgage transaction
 20 application or in offering or negotiating the terms of a mortgage
 21 transaction that either is made under this article or under IC 37-1
 22 or is made by an employee of a person licensed to engage in
 23 mortgage transactions or by an employee of a person that is
 24 exempt from licensing, while the employee is engaging in the loan
 25 brokerage business. The term does not include the following:

26 (1) An individual engaged solely as a loan processor or
 27 underwriter as long as the individual works exclusively as an
 28 employee of a person licensed to engage in mortgage
 29 transactions or as an employee of a person exempt from
 30 licensing. However, the term includes an individual who is
 31 licensed as a mortgage loan originator under IC 37-1-1 and
 32 750 IAC 9-3 and who is an employee of a person that is not
 33 engaged in mortgage transactions as a creditor if that person
 34 voluntarily registers with the department to sponsor the
 35 individual under IC 37-1-1-6(8), to engage solely as a third
 36 party processor or underwriter.

37 (2) Unless the person or entity is compensated by:

38 (A) a creditor;

39 (B) a loan broker;

40 (C) another mortgage loan originator; or

41 (D) any agent of the creditor, loan broker, or other
 42 mortgage loan originator described in clauses (A)

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1 through (C);
2 a person or entity that only performs real estate brokerage
3 activities and is licensed or registered in accordance with
4 applicable state law.

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

7 Sec. 31. "Mortgage servicer" means the last person to whom
8 a mortgagor or the mortgagor's successor in interest has been
9 instructed by a mortgagee to send payments on a loan secured by
10 a mortgage.

11 Sec. 32. "Mortgage transaction" means:

- 12 (1) a consumer loan; or
- 13 (2) a consumer credit sale;

14 that is or will be used by the debtor primarily for personal, family,
15 or household purposes and that is secured by a mortgage or a land
16 contract (or another consensual security interest equivalent to a
17 mortgage or a land contract) on a dwelling or on residential real
18 estate upon which a dwelling is constructed or intended to be
19 constructed.

20 Sec. 33. "Nationwide Multistate Licensing System and
21 Registry" (or "Nationwide Mortgage Licensing System and
22 Registry" or "NMLSR") means a multistate licensing system
23 owned and operated by the State Regulatory Registry, LLC, or by
24 any successor or affiliated entity, for the licensing and registration
25 of creditors, mortgage loan originators, and other persons in the
26 mortgage or financial services industries. The term includes any
27 other name or acronym that may be assigned to the system by the
28 State Regulatory Registry, LLC, or by any successor or affiliated
29 entity.

30 Sec. 34. "Nontraditional mortgage product" means any
31 mortgage product other than a thirty (30) year fixed rate
32 mortgage.

33 Sec. 35. "Official fees" means:

- 34 (1) fees and charges prescribed by law which actually are or
35 will be paid to public officials for determining the existence
36 of or for perfecting, releasing, or satisfying a security
37 interest related to a consumer credit sale, consumer lease, or
38 consumer loan; or

- 39 (2) premiums payable for insurance in lieu of perfecting a
40 security interest otherwise required by the creditor in
41 connection with the sale, lease, or loan, if the premium does
42 not exceed the fees and charges described in subdivision (1)

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1 that would otherwise be payable.

2 **Sec. 36. "Organization"** means a corporation, a government
3 or governmental subdivision, an agency, a trust, an estate, a
4 partnership, a limited liability company, a cooperative, an
5 association, a joint venture, an unincorporated organization, or
6 any other entity, however organized.

7 **Sec. 37. "Payable in installments"** means that payment is
8 required or permitted by written agreement to be made in more
9 than four (4) installments not including a down payment.

10 **Sec. 38. "Person"** includes an individual or an organization.

11 **Sec. 39. "Person related to"** with respect to an individual
12 means:
13 (1) the spouse of the individual;
14 (2) a brother, brother-in-law, sister, or sister-in-law of the
15 individual;
16 (3) an ancestor or lineal descendants of the individual or the
17 individual's spouse; and
18 (4) any other relative, by blood or marriage, of the individual
19 or the individual's spouse who shares the same home with the
20 individual.

21 **Sec. 40. "Person related to"** with respect to an organization
22 means:
23 (1) a person directly or indirectly controlling, controlled by,
24 or under common control with the organization;
25 (2) a director, an executive officer, or a manager of the
26 organization or a person performing similar functions with
27 respect to the organization or to a person related to the
28 organization;
29 (3) the spouse of a person related to the organization; and
30 (4) a relative by blood or marriage of a person related to the
31 organization who shares the same home with the person.

32 **Sec. 40.5. "Principal"** of a loan means the total of:
33 (1) the net amount paid to, receivable by, or paid or payable
34 for the account of the debtor;
35 (2) the amount of any discount excluded from the loan
36 finance charge (section 28.5(b) of this chapter); and
37 (3) to the extent that payment is deferred:
38 (A) amounts actually paid or to be paid by the lender for
39 registration, certificate of title, or license fees if not
40 included in subdivision (1); and
41 (B) additional charges permitted by IC 37-2-4-5.

42 The term does not include any loan proceeds held as security for

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1 the loan.

2 Sec. 41. "Presumed" or "presumption" means that the trier of
3 fact must find the existence of the fact presumed, unless and until
4 evidence is introduced that would support a finding of its
5 nonexistence.

6 Sec. 42. "Real estate brokerage activity" means any activity
7 that involves offering or providing real estate brokerage services
8 to the public, including the following:

9 (1) Acting as a real estate agent or real estate broker for a
10 buyer, seller, lessor, or lessee of real property.

11 (2) Bringing together parties interested in the sale, purchase,
12 lease, rental, or exchange of real property.

13 (3) Negotiating, on behalf of any party, any part of a contract
14 relating to the sale, purchase, lease, rental, or exchange of
15 real property (other than in connection with providing
16 financing with respect to the sale, purchase, lease, rental, or
17 exchange of real property).

18 (4) Engaging in any activity for which a person is required to
19 be registered or licensed as a real estate agent or real estate
20 broker under any applicable law.

21 (5) Offering to engage in any activity, or act in any capacity,
22 described in this subsection.

23 Sec. 43. "Registered mortgage loan originator" means any
24 individual who:

25 (1) meets the definition of mortgage loan originator and is an
26 employee of:

27 (A) a depository institution;

28 (B) a subsidiary that is owned and controlled by a
29 depository institution and regulated by a federal
30 banking agency; or

31 (C) an institution regulated by the Farm Credit
32 Administration; and

33 (2) is registered with, and maintains a unique identifier
34 through, the NMLSR.

35 Sec. 44. "Regularly engaged", with respect to a person who
36 extends consumer credit, refers to a person who:

37 (1) extended consumer credit:

38 (A) more than twenty-five (25) times; or

39 (B) more than five (5) times for a mortgage transaction
40 secured by a dwelling;

41 in the preceding calendar year; or

42 (2) extends or will extend consumer credit:



- 1 (A) more than twenty-five (25) times; or
- 2 (B) more than five (5) times for a mortgage transaction
- 3 secured by a dwelling;
- 4 in the current calendar year, if the person did not meet the
- 5 numerical standards described in subdivision (1) in the
- 6 preceding calendar year.

7 **Sec. 44.5. "Residential real estate"** means any real property
 8 that is located in Indiana and on which there is located or intended
 9 to be constructed a dwelling.

10 **Sec. 44.7. "Revolving charge account"** means an arrangement
 11 between a seller and a buyer pursuant to which:

- 12 (1) the seller may permit the buyer to purchase goods or
- 13 services on credit either from the seller or pursuant to a
- 14 seller credit card;
- 15 (2) the unpaid balances of amounts financed arising from
- 16 purchases and the credit service and other appropriate
- 17 charges are debited to an account;
- 18 (3) a credit service charge if made is not precomputed but is
- 19 computed on the outstanding unpaid balances of the buyer's
- 20 account from time to time; and
- 21 (4) the buyer has the privilege of paying the balances in
- 22 installments.

23 **Sec. 45. "Revolving loan account"** means an arrangement
 24 between a lender and a debtor pursuant to which:

- 25 (1) the lender may permit the debtor to obtain loans from
- 26 time to time;
- 27 (2) the unpaid balances of principal and the loan finance and
- 28 other appropriate charges are debited to an account;
- 29 (3) a loan finance charge if made is not precomputed but is
- 30 computed on the outstanding unpaid balances of the debtor's
- 31 account from time to time; and
- 32 (4) the debtor has the privilege of paying the balances in
- 33 installments.

34 **Sec. 45.1. "Sale of an interest in land"** includes a lease in which
 35 the lessee has an option to purchase the interest and all or a
 36 substantial part of the rental or other payments previously made
 37 by the lessee are applied to the purchase price.

38 **Sec. 45.3. "Sale of goods"** includes any agreement in the form
 39 of a bailment or lease of goods if the bailee or lessee agrees to pay
 40 as compensation for use a sum substantially equivalent to or in
 41 excess of the aggregate value of the goods involved and it is agreed
 42 that the bailee or lessee will become, or for no other or a nominal

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1 consideration has the option to become, the owner of the goods
2 upon full compliance with the bailee's or the lessee's obligations
3 under the agreement.

4 Sec. 45.5. "Sale of services" means furnishing or agreeing to
5 furnish services and includes making arrangements to have
6 services furnished by another.

7 Sec. 45.7. Except as otherwise provided, "seller" means a
8 person regularly engaged as a creditor in making consumer credit
9 sales. The term includes an assignee of the seller's right to payment
10 but use of the term does not in itself impose on an assignee any
11 obligation of the seller with respect to events occurring before the
12 assignment.

13 Sec. 46. "Seller credit card" means an arrangement that gives
14 to a buyer or lessee the privilege of using a credit card, letter of
15 credit, or other credit confirmation or identification for the
16 purpose of purchasing or leasing goods or services from that
17 person, a person related to that person, or from that person and
18 any other person. The term includes a card that is issued by a
19 person that is in the name of the seller, and that can be used by the
20 buyer or lessee only for purchases or leases at locations of the
21 named seller.

22 Sec. 46.5. "Services" includes:

- 23 (1) work, labor, and other personal services;
- 24 (2) privileges with respect to transportation, hotel and
25 restaurant accommodations, education, entertainment,
26 recreation, physical culture, hospital accommodations,
27 funerals, cemetery accommodations, and the like; and
- 28 (3) insurance provided by a person other than the insurer.

29 Sec. 46.7. "Skip-a-payment service" means a service that:

- 30 (1) in the case of a consumer credit sale:
 - 31 (A) is offered by a creditor to a consumer; and
 - 32 (B) permits the consumer to miss or skip a payment due
33 under a consumer credit sale without resulting in
34 default; and
- 35 (2) in the case of a consumer loan:
 - 36 (A) is offered by a lender to a consumer; and
 - 37 (B) permits the consumer to miss or skip a payment due
38 under a consumer loan without resulting in default.

39 Sec. 47. "Subordinate lien mortgage transaction" means:

- 40 (1) a consumer loan; or
- 41 (2) a consumer credit sale;

42 that is or will be used by the debtor primarily for personal, family,



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

6 Sec. 47.3. "Supervised lender" means a person authorized to
 7 make or take assignments of supervised loans.

8 Sec. 47.5. "Supervised loan" means a consumer loan in which
 9 the rate of the loan finance charge exceeds twenty-five percent
 10 (25%) per year as determined according to the provisions on loan
 11 finance charge for consumer loans in IC 37-2-4-4.

12 Sec. 48. "Unique identifier" means a number or other
 13 identifier assigned by protocols established by the NMLSR.

14 **Chapter 3. Credit Sales**

15 Sec. 1. (a) This chapter applies to consumer credit sales,
 16 including home solicitation sales, and consumer leases.

17 (b) Sections 14 through 27 of this chapter apply to consumer
 18 credit sales and consumer leases.

19 (c) Sections 29 through 33 of this chapter apply to consumer
 20 related sales.

21 (d) Licensing under IC 37-2-4-24 applies to consumer credit
 22 sales that are subordinate lien mortgage transactions.

23 Sec. 2. A sale, refinancing, or consolidation is considered
 24 precomputed if the debt is expressed as a sum comprising the
 25 amount financed and the amount of the credit service charge
 26 computed in advance.

27 Sec. 3. The cash price stated by the seller to the buyer
 28 pursuant to section 13 of this chapter is presumed to be the cash
 29 price.

30 Sec. 4. (a) Except as provided in subsections (h) and (k), with
 31 respect to a consumer credit sale, a seller may contract for and
 32 receive a credit service charge not exceeding that permitted by this
 33 section.

34 (b) The credit service charge, calculated according to the
 35 actuarial method, may not exceed the equivalent of the greater of:

36 (1) the total of:

37 (A) thirty-six percent (36%) per year on that part of the
 38 unpaid balances of the amount financed which is two
 39 thousand dollars (\$2,000) or less;

40 (B) twenty-one percent (21%) per year on that part of
 41 the unpaid balances of the amount financed which is
 42 more than two thousand dollars (\$2,000) but does not

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- 1 exceed four thousand dollars (\$4,000); and
- 2 (C) fifteen percent (15%) per year on that part of the
- 3 unpaid balances of the amount financed which is more
- 4 than four thousand dollars (\$4,000); or
- 5 (2) twenty-five percent (25%) per year on the unpaid
- 6 balances of the amount financed.
- 7 (c) In the case of a sale agreement entered into before July 1,
- 8 2020, this section does not limit or restrict the manner of
- 9 contracting for the credit service charge, whether by way of
- 10 add-on, discount, or otherwise, so long as the rate of the credit
- 11 service charge does not exceed that permitted by this section. If the
- 12 sale is precomputed:
- 13 (1) the credit service charge may be calculated on the
- 14 assumption that all scheduled payments will be made when
- 15 due; and
- 16 (2) the effect of prepayment is governed by the provisions on
- 17 rebate upon prepayment in section 12 of this chapter.
- 18 (d) The following apply to a sale agreement for a consumer
- 19 credit sale (or for the refinancing or consolidation of a consumer
- 20 credit sale) that is entered into after June 30, 2020:
- 21 (1) The credit service charge authorized by this section must
- 22 be:
- 23 (A) contracted for between the seller and the debtor;
- 24 and
- 25 (B) calculated by applying a rate not exceeding the rate
- 26 set forth in subsection (b) to unpaid balances of the
- 27 amount financed.
- 28 (2) A sale agreement for a precomputed consumer credit sale
- 29 is prohibited.
- 30 (3) Subject to subsection (m), in addition to the credit service
- 31 charge authorized by subsection (b) and to any other fees
- 32 permitted by this chapter, and not subject to the rate set
- 33 forth in subsection (b), the seller may contract for and
- 34 receive as a condition for, or an incident to, the extension of
- 35 credit a nonrefundable prepaid finance charge under
- 36 subsection (k), whether the charge is:
- 37 (A) paid separately in cash or by check before or at
- 38 consummation; or
- 39 (B) withheld from the proceeds of the consumer credit
- 40 sale.
- 41 (e) For the purposes of this section, the term of a sale
- 42 agreement commences with the date the credit is granted or, if

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1 goods are delivered or services performed more than thirty (30)
2 days after that date, with the date of commencement of delivery or
3 performance except as follows:

4 (1) This subdivision applies to a delay attributable to the
5 customer. Where the customer requests delivery after the
6 thirty (30) day period or where delivery occurs after the
7 thirty (30) day period for a reason attributable to the
8 customer (including but not limited to failure to close on a
9 residence or failure to obtain lease approval), the term of the
10 sale agreement shall commence with the date credit is
11 granted.

12 (2) This subdivision applies to a partial delivery. Where any
13 portion of the order has been delivered within the thirty (30)
14 day period, the term of the sale agreement shall commence
15 with the date credit is granted.

16 Differences in the lengths of months are disregarded and a day
17 may be counted as one-thirtieth (1/30) of a month. Subject to
18 classifications and differentiations the seller may reasonably
19 establish, a part of a month in excess of fifteen (15) days may be
20 treated as a full month if periods of fifteen (15) days or less are
21 disregarded and that procedure is not consistently used to obtain
22 a greater yield than would otherwise be permitted.

23 (f) With respect to a consumer credit sale made pursuant to a
24 revolving charge account, the parties to the sale may contract for
25 the payment by the buyer of a credit service charge not exceeding
26 that permitted in this section, subject to the following:

27 (1) The credit service charge contracted for and received
28 may not exceed a charge in each monthly billing cycle which
29 is two and eighty-three thousandths percent (2.083%) of an
30 amount not greater than:

- 31 (A) the average daily balance of the account;
- 32 (B) the unpaid balance of the account on the same day of
33 the billing cycle; or
- 34 (C) subject to subsection (g), the median amount within
35 a specified range within which the average daily balance
36 of the account or the unpaid balance of the account, on
37 the same day of the billing cycle, is included.

38 For purposes of clauses (B) and (C), a variation of not more
39 than four (4) days from month to month is "the same day of
40 the billing cycle".

41 (2) If the billing cycle is not monthly, the maximum charge
42 is that percentage which bears the same relation to the

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1 applicable monthly maximum percentage as the number of
2 days in the billing cycle bears to thirty (30).

3 (3) Notwithstanding subdivision (1), if there is an unpaid
4 balance on the date as of which the credit service charge is
5 applied, the seller may contract for and receive a charge not
6 exceeding fifty cents (\$0.50) if the billing cycle is monthly or
7 longer, or the pro rata part of fifty cents (\$0.50) which bears
8 the same relation to fifty cents (\$0.50) as the number of days
9 in the billing cycle bears to thirty (30) if the billing cycle is
10 shorter than monthly. However, a seller may not contract for
11 or receive a charge under this subdivision if the seller has
12 made an annual charge for the same period as permitted by
13 the provisions on additional charges in section 5(a)(5) of this
14 chapter.

15 (g) Subject to classifications and differentiations the seller may
16 reasonably establish, the seller may make the same credit service
17 charge on all amounts financed within a specified range. A credit
18 service charge so made does not violate subsection (b) if:

19 (1) when applied to the median amount within each range, it
20 does not exceed the maximum permitted by subsection (b);
21 and

22 (2) when applied to the lowest amount within each range, it
23 does not produce a rate of credit service charge exceeding
24 the rate calculated according to subdivision (1) by more than
25 eight percent (8%) of the rate calculated according to
26 subdivision (1).

27 (h) Notwithstanding subsection (b), with respect to a consumer
28 sale other than a sale under a revolving charge account, the seller
29 may contract for and receive a minimum credit service charge of
30 not more than thirty dollars (\$30). The minimum credit service
31 charge allowed under this subsection may be imposed only if the
32 seller does not contract for or receive a nonrefundable prepaid
33 finance charge under subsection (k) and:

34 (1) the debtor prepays in full a consumer credit sale,
35 refinancing, or consolidation, regardless of whether the sale,
36 refinancing, or consolidation is precomputed;

37 (2) the sale, refinancing, or consolidation prepaid by the
38 debtor is subject to a credit service charge that:

39 (A) is contracted for by the parties; and

40 (B) does not exceed the rate prescribed in subsection (b);
41 and

42 (3) the credit service charge earned at the time of

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1 prepayment is less than the minimum credit service charge
2 contracted for under this subsection.

3 (i) The amounts of two thousand dollars (\$2,000) and four
4 thousand dollars (\$4,000) in subsection (b) are subject to change
5 pursuant to the provisions on adjustment of dollar amounts
6 (IC 37-2-1-5). However, notwithstanding IC 37-2-1-5(a), the
7 Reference Base Index to be used under this subsection is the Index
8 for October 2012.

9 (j) The amount of thirty dollars (\$30) in subsection (h) is
10 subject to change under the provisions on adjustment of dollar
11 amounts (IC 37-2-1-5). However, notwithstanding IC 37-2-1-5(a),
12 the Reference Base Index to be used under this subsection is the
13 Index for October 1992.

14 (k) This subsection applies to a sale agreement entered into
15 after June 30, 2020. Except as provided in subsection (h), and
16 subject to subsection (m), in addition to the credit service charge
17 authorized by subsection (b), and to any other fees permitted by
18 this chapter, a seller may contract for and receive a nonrefundable
19 prepaid finance charge in an amount which is not more than:

- 20 (1) seventy-five dollars (\$75) for an amount financed which
- 21 is two thousand dollars (\$2,000) or less;
- 22 (2) one hundred fifty dollars (\$150) for an amount financed
- 23 which is more than two thousand dollars (\$2,000) but does
- 24 not exceed four thousand dollars (\$4,000); and
- 25 (3) two hundred dollars (\$200) for an amount financed which
- 26 is more than four thousand dollars (\$4,000).

27 The nonrefundable prepaid finance charge is not subject to refund
28 or rebate. However, any amount charged by the seller, other than
29 by a seller that is a depository institution, under this subsection
30 that exceeds the applicable amount permitted by this subsection
31 constitutes a violation of this article under IC 37-2-7-8(12) and is
32 subject to refund. Any amount charged by a depository institution
33 under this subsection that exceeds the applicable amount set forth
34 in this subsection is subject to refund. The amounts in this
35 subsection are not subject to change under IC 37-2-1-5.

36 (l) If the director determines that a seller's accrual method of
37 accounting as applied to a consumer credit sale under this section
38 involves the application of subterfuge for the purpose of
39 circumventing this chapter, the director may conform the credit
40 service charge and fees for the transaction to the limitations set
41 forth in this section and may require a refund of overcharges
42 under IC 37-2-7-5(b)(1). A determination by the director under this

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1 subsection:
 2 (1) must be in writing;
 3 (2) shall be delivered to all parties in the transaction; and
 4 (3) is subject to IC 4-21.5-3.
 5 (m) At the time of consummation of a consumer credit sale:
 6 (1) the credit service charge authorized by subsection (b);
 7 and
 8 (2) the nonrefundable prepaid finance charge authorized by
 9 subsection (k) (including any amount charged by a
 10 depository institution that exceeds the applicable amount set
 11 forth in subsection (k)) in the case of a sale agreement
 12 entered into after June 30, 2020;
 13 are subject to IC 35-45-7 and, when combined, may not exceed the
 14 rate set forth in IC 35-45-7-2.

15 Sec. 5. (a) In addition to the credit service charge permitted by
 16 this chapter, a seller may contract for and receive any of the
 17 following additional charges in connection with a consumer credit
 18 sale:

- 19 (1) Official fees and taxes.
- 20 (2) Charges for insurance as described in subsection (b).
- 21 (3) Notwithstanding provisions of the Consumer Credit
 22 Protection Act (15 U.S.C. 1601 et seq.) concerning disclosure,
 23 charges for other benefits, including insurance, conferred on
 24 the consumer, if the benefits are of value to the consumer
 25 and if the charges are reasonable in relation to the benefits,
 26 and are excluded as permissible additional charges from the
 27 credit service charge. With respect to any additional charge
 28 not specifically provided for in this section, to be a permitted
 29 charge under this subsection the seller must submit a written
 30 explanation of the charge to the department indicating how
 31 the charge would be assessed and the value or benefit to the
 32 consumer. Supporting documents may be required by the
 33 department. The department shall determine whether the
 34 charge would be of benefit to the consumer and is reasonable
 35 in relation to the benefits.
- 36 (4) A charge not to exceed twenty-five dollars (\$25) for each
 37 returned payment by a bank or other depository institution
 38 of a dishonored check, electronic funds transfer, negotiable
 39 order of withdrawal, or share draft issued by the consumer.
- 40 (5) Annual participation fees assessed in connection with a
 41 revolving charge account. Annual participation fees must:
 42 (A) be reasonable in amount;

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- 1 (B) bear a reasonable relationship to the seller's costs to
 2 maintain and monitor the charge account; and
 3 (C) not be assessed for the purpose of circumvention or
 4 evasion of this article, as determined by the department.
- 5 (6) A charge not to exceed twenty-five dollars (\$25) for a
 6 skip-a-payment service, subject to the following:
- 7 (A) At the time of use of the service, the consumer must
 8 be given written notice of the amount of the charge and
 9 must acknowledge the amount in writing, including by
 10 electronic signature.
- 11 (B) A charge for a skip-a-payment service may not be
 12 assessed with respect to a consumer credit sale subject
 13 to the provisions on rebate upon prepayment that are set
 14 forth in section 12 of this chapter.
- 15 (C) A charge for a skip-a-payment service may not be
 16 assessed with respect to any payment for which a
 17 delinquency charge has been assessed under section 6 of
 18 this chapter.
- 19 (7) A charge not to exceed ten dollars (\$10) for an optional
 20 expedited payment service, subject to the following:
- 21 (A) The charge may be assessed only upon request by
 22 the consumer to use the expedited payment service.
- 23 (B) The amount of the charge must be disclosed to the
 24 consumer at the time of the consumer's request to use
 25 the expedited payment service.
- 26 (C) The consumer must be informed that the consumer
 27 retains the option to make a payment by traditional
 28 means.
- 29 (D) The charge may not be established in advance,
 30 through any agreement with the consumer, as the
 31 expected method of payment.
- 32 (E) The charge may not be assessed with respect to any
 33 payment for which a delinquency charge has been
 34 assessed under section 6 of this chapter.
- 35 (8) A charge for a GAP agreement, subject to subsection (d).
 36 (b) An additional charge may be made for insurance written
 37 in connection with the sale, other than insurance protecting the
 38 seller against the consumer's default or other credit loss:
- 39 (1) with respect to insurance against loss of or damage to
 40 property, or against liability, if the seller furnishes a clear
 41 and specific statement in writing to the consumer, setting
 42 forth the cost of the insurance if obtained from or through

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1 the seller and stating that the consumer may choose the
 2 person, subject to the seller's reasonable approval, through
 3 whom the insurance is to be obtained; and
 4 (2) with respect to consumer credit insurance providing life,
 5 accident, unemployment or other loss of income, or health
 6 coverage, if the insurance coverage is not a factor in the
 7 approval by the seller of the extension of credit and is clearly
 8 disclosed in writing to the consumer, and if, in order to
 9 obtain the insurance in connection with the extension of
 10 credit, the consumer gives specific, affirmative, written
 11 indication of the desire to do so after written disclosure of
 12 the cost.

13 (c) With respect to a subordinate lien mortgage transaction,
 14 the following closing costs, if the costs are bona fide, reasonable in
 15 amount, and not for the purpose of circumvention or evasion of
 16 this article:

- 17 (1) fees for title examination, abstract of title, title insurance,
 18 property surveys, or similar purposes;
 19 (2) fees for preparing deeds, mortgages, and reconveyance,
 20 settlement, and similar documents;
 21 (3) notary and credit report fees;
 22 (4) amounts required to be paid into escrow or trustee
 23 accounts if the amounts would not otherwise be included in
 24 the credit service charge; and
 25 (5) appraisal fees.

26 (d) An additional charge may be made for a GAP agreement,
 27 subject to the following:

- 28 (1) A GAP agreement or GAP coverage may not be required
 29 by the seller, and that fact must be disclosed in writing to the
 30 consumer.
 31 (2) The charge for the initial term of coverage under the
 32 GAP agreement must be disclosed in writing to the
 33 consumer. The charge may be disclosed on a unit-cost basis
 34 only in the case of the following transactions:
 35 (A) Revolving charge accounts.
 36 (B) Closed-end credit transactions, if the request for
 37 coverage is made by mail or telephone.
 38 (C) Closed-end credit transactions, if the GAP
 39 agreement limits the total amount of indebtedness
 40 eligible for coverage.
 41 (3) If the term of coverage under the GAP agreement is less
 42 than the term of the consumer credit sale, the term of



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coverage under the GAP agreement must be disclosed in writing to the consumer.

(4) The consumer must sign or initial an affirmative written request for coverage after receiving all required disclosures.

(5) The GAP agreement must include the following:

(A) In the case of GAP coverage for a new motor vehicle, the manufacturer's suggested retail price (MSRP) for the motor vehicle.

(B) In the case of GAP coverage for a used motor vehicle, the average retail value for the motor vehicle, as determined by use of a third party valuation service provider that is customarily relied upon in the used motor vehicle commercial marketplace.

(C) The name of the financing entity taking assignment of the agreement.

(D) The name and address of the consumer.

(E) The name of the creditor selling the agreement.

(F) Information advising the consumer that the consumer may be able to obtain similar coverage from the consumer's primary insurance carrier.

(G) A coverage provision that includes a minimum deductible of five hundred dollars (\$500).

(H) A provision providing for a minimum thirty (30) day free-look period.

(I) In the case of a consumer credit sale involving a motor vehicle, a provision excluding the sale of GAP coverage if the amount financed under the consumer credit sale (not including the cost of the GAP agreement, the cost of any credit insurance, and the cost of any warranties or service agreements) is less than eighty percent (80%) of the manufacturer's suggested retail price (MSRP), in the case of a new motor vehicle, or the average retail value (as determined by use of a third party valuation service provider that is customarily relied upon in the used motor vehicle commercial marketplace), in the case of a used motor vehicle.

(J) In the case of a GAP agreement in which the charge for the agreement exceeds four hundred dollars (\$400), specific instructions that may be used by the consumer to cancel the agreement and obtain a refund of the unearned GAP charge before prepayment in full, in accordance with the procedures, and subject to the

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- 1 conditions, set forth in subdivision (6).
 2 **(6) If the charge for the GAP agreement exceeds four**
 3 **hundred dollars (\$400), the consumer is entitled to cancel the**
 4 **agreement and obtain a refund of the unearned GAP charge**
 5 **before prepayment in full. Refunds of unearned GAP**
 6 **charges shall be made subject to the following conditions:**
 7 **(A) A refund of the charge for a GAP agreement must**
 8 **be calculated using a method that is no less favorable to**
 9 **the consumer than a refund calculated on a pro rata**
 10 **basis.**
 11 **(B) The consumer is entitled to a refund of the unearned**
 12 **GAP agreement charge as outlined in the GAP**
 13 **agreement.**
 14 **(C) The seller of the GAP agreement is responsible for**
 15 **making a timely refund to the consumer of unearned**
 16 **GAP agreement charges under the terms and conditions**
 17 **of the GAP agreement.**
 18 **(7) Upon prepayment in full of the consumer credit sale:**
 19 **(A) the GAP coverage is automatically terminated; and**
 20 **(B) the seller of the GAP agreement must issue a refund**
 21 **in accordance with subdivision (6).**
 22 **(8) A creditor that sells GAP agreements must:**
 23 **(A) insure its GAP agreement obligations under a**
 24 **contractual liability insurance policy issued by an**
 25 **insurer authorized to engage in the insurance business**
 26 **in Indiana; and**
 27 **(B) retain appropriate records, as required under this**
 28 **article, regarding GAP agreements sold, refunded, and**
 29 **expired.**
 30 **Sec. 6. (a) With respect to a consumer credit sale, refinancing,**
 31 **or consolidation, the parties may contract for a delinquency charge**
 32 **of not more than the following:**
 33 **(1) Five dollars (\$5) on any installment or minimum payment**
 34 **due that is not paid in full not later than ten (10) days after**
 35 **its scheduled due date, in the case of a consumer credit sale,**
 36 **refinancing, or consolidation that is made before July 1,**
 37 **2019. The amount of five dollars (\$5) in this subdivision is**
 38 **subject to change under IC 37-2-1-5. In addition, the parties**
 39 **may provide by contract for a delinquency charge that is**
 40 **subject to change. If the parties provide by contract for a**
 41 **delinquency charge that is subject to change, the seller shall**
 42 **disclose in the contract that the amount of the delinquency**

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1 charge is subject to change under IC 37-2-1-5 or this section.
 2 (2) In the case of a consumer credit sale, refinancing, or
 3 consolidation that is made after June 30, 2019, the following:

4 (A) Five dollars (\$5) on any installment or minimum
 5 payment due that is not paid in full not later than ten
 6 (10) days after its scheduled due date, if installments
 7 under the consumer credit sale, refinancing, or
 8 consolidation are due every fourteen (14) days or less.
 9 The amount of five dollars (\$5) in this clause is not
 10 subject to change under IC 37-2-1-5.

11 (B) Twenty-five dollars (\$25) on any installment or
 12 minimum payment due that is not paid in full not later
 13 than ten (10) days after its scheduled due date, if
 14 installments under the consumer credit sale,
 15 refinancing, or consolidation are due every fifteen (15)
 16 days or more. The amount of twenty-five dollars (\$25)
 17 in this clause is not subject to change under IC 37-2-1-5.

18 (C) Twenty-five dollars (\$25) on any installment or
 19 minimum payment due that is not paid in full not later
 20 than ten (10) days after its scheduled due date, in the
 21 case of a consumer credit sale, refinancing, or
 22 consolidation that is payable in a single installment that
 23 is due at least thirty (30) days after the consumer credit
 24 sale, refinancing, or consolidation is made. The amount
 25 of twenty-five dollars (\$25) in this clause is not subject
 26 to change under IC 37-2-1-5.

27 (b) A delinquency charge under this section may be collected
 28 only once on an installment however long it remains in default. A
 29 delinquency charge on consumer credit sales made under a
 30 revolving charge account may be applied each month that the
 31 payment is less than the minimum required payment. A
 32 delinquency charge may be collected any time after it accrues. No
 33 delinquency charge may be collected if:

- 34 (1) the installment has been deferred and a deferral charge
 35 under section 7 of this chapter has been paid or incurred;
 36 (2) a charge for a skip-a-payment service has been paid or
 37 incurred, as provided in section 5 of this chapter; or
 38 (3) a charge for an optional expedited payment service has
 39 been paid or incurred, as provided in section 5 of this
 40 chapter.

41 (c) A creditor may not, directly or indirectly, charge or collect
 42 a delinquency charge on a payment that:

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1 **(1) is paid not later than ten (10) days after its scheduled due**
 2 **date; and**
 3 **(2) is otherwise a full payment of the payment due for the**
 4 **applicable installment period;**
 5 **if the only delinquency with respect to the consumer credit sale,**
 6 **refinancing, or consolidation is attributable to a delinquency**
 7 **charge assessed on an earlier installment.**
 8 **(d) If two (2) or more installments, or parts of two (2) or more**
 9 **installments, of a precomputed consumer credit sale are in default**
 10 **for ten (10) days or more, the creditor may elect to convert the**
 11 **consumer credit sale from a precomputed consumer credit sale to**
 12 **a consumer credit sale in which the credit service charge is based**
 13 **on unpaid balances. A creditor that makes this election shall make**
 14 **a rebate under the provisions on rebates upon prepayment under**
 15 **section 12 of this chapter as of the maturity date of the first**
 16 **delinquent installment, and thereafter may make a credit service**
 17 **charge as authorized by the provisions on credit service charges for**
 18 **consumer credit sales under section 4 of this chapter. The amount**
 19 **of the rebate shall not be reduced by the amount of any permitted**
 20 **minimum charge under section 12 of this chapter. Any deferral**
 21 **charges made on installments due at or after the maturity date of**
 22 **the first delinquent installment shall be rebated, and no further**
 23 **deferral charges shall be made.**
 24 **Sec. 7. (a) This section applies only to a consumer credit sale,**
 25 **refinancing, or consolidation, that is entered into before July 1,**
 26 **2020. With respect to a precomputed consumer credit sale,**
 27 **refinancing, or consolidation, the parties before or after default**
 28 **may agree in writing to a deferral of all or part of one (1) or more**
 29 **unpaid installments, and the seller may make and collect a charge**
 30 **not exceeding the lesser of thirty-six percent (36%) per year or the**
 31 **rate previously stated to the buyer pursuant to section 13 of this**
 32 **chapter applied to the amount or amounts deferred for the period**
 33 **of deferral calculated without regard to differences in lengths of**
 34 **months, but proportionately for a part of a month, counting each**
 35 **day as one-thirtieth (1/30) of a month. A deferral charge may be**
 36 **collected at the time it is assessed or at any time thereafter.**
 37 **(b) The seller, in addition to the deferral charge, may make**
 38 **appropriate additional charges under section 5 of this chapter, and**
 39 **the amount of these charges which is not paid in cash may be added**
 40 **to the amount deferred for the purpose of calculating the deferral**
 41 **charge.**
 42 **(c) The parties may agree in writing at the time of a**

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1 precomputed consumer credit sale, refinancing, or consolidation
 2 that if an installment is not paid within ten (10) days after its due
 3 date, the seller may unilaterally grant a deferral and make charges
 4 as provided in this section. No deferral charge may be made for a
 5 period after the date that the seller elects to accelerate the maturity
 6 of the agreement.

7 (d) A delinquency charge made by the seller on an installment
 8 may not be retained if a deferral charge is made pursuant to this
 9 section with respect to the period of delinquency.

10 Sec. 8. With respect to a consumer credit sale, refinancing, or
 11 consolidation, the seller may by agreement with the buyer
 12 refinance the unpaid balance and may contract for and receive a
 13 credit service charge based on the amount financed resulting from
 14 the refinancing at a rate not exceeding that permitted by the
 15 provisions on credit service charge for consumer credit sales under
 16 section 4 of this chapter. For the purpose of determining the credit
 17 service charge permitted, the amount financed resulting from the
 18 refinancing comprises the following:

19 (1) If:

20 (A) the transaction was not precomputed, the total of the
 21 unpaid balance and accrued charges on the date of
 22 refinancing; or

23 (B) the transaction was precomputed, in the case of a
 24 transaction entered into before July 1, 2020, the amount
 25 which the buyer would have been required to pay upon
 26 prepayment pursuant to the provisions on rebate upon
 27 prepayment (section 12 of this chapter) on the date of
 28 refinancing.

29 (2) Appropriate additional charges under section 5 of this
 30 chapter, payment of which is deferred.

31 Sec. 9. If a buyer owes an unpaid balance to a seller with
 32 respect to a consumer credit sale, refinancing, or consolidation,
 33 and becomes obligated on another consumer credit sale,
 34 refinancing, or consolidation with the same seller, the parties may
 35 agree to a consolidation resulting in a single schedule of payments
 36 pursuant to either of the following:

37 (1) The parties may agree to refinance the unpaid balance
 38 with respect to the previous sale pursuant to the provisions
 39 on refinancing (section 8 of this chapter) and to consolidate
 40 the amount financed resulting from the refinancing by
 41 adding it to the amount financed with respect to the
 42 subsequent sale. The seller may contract for and receive a



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1 credit service charge based on the aggregate amount
 2 financed resulting from the consolidation at a rate not
 3 exceeding that permitted by the provisions on credit service
 4 charge for consumer credit sales (section 4 of this chapter).

5 (2) The parties may agree to consolidate by adding together
 6 the unpaid balances with respect to the two sales.

7 Sec. 10. (a) If the agreement with respect to a consumer credit
 8 sale, refinancing, or consolidation contains covenants by the buyer
 9 to perform certain duties pertaining to insuring or preserving
 10 collateral and the seller pursuant to the agreement pays for
 11 performance of the duties on behalf of the buyer, the seller may
 12 add the amounts paid to the debt. Within a reasonable time after
 13 advancing any sums, the seller shall state to the buyer in writing
 14 the amount of the sums advanced, any charges with respect to this
 15 amount, and any revised payment schedule and, if the duties of the
 16 buyer performed by the seller pertain to insurance, a brief
 17 description of the insurance paid for by the seller including the
 18 type and amount of coverages. No further information need be
 19 given.

20 (b) A credit service charge may be made for sums advanced
 21 pursuant to subsection (a) at a rate not exceeding the rate stated to
 22 the buyer pursuant to section 13 of this chapter with respect to the
 23 sale, refinancing or consolidation, except that with respect to a
 24 revolving charge account the amount of the advance may be added
 25 to the unpaid balance of the account and the seller may make a
 26 credit service charge not exceeding that permitted by the
 27 provisions on credit service charge for revolving charge accounts
 28 set forth in section 4(f) of this chapter.

29 Sec. 11. (a) Subject to the provisions on rebate upon
 30 prepayment set forth in section 12 of this chapter, the buyer may
 31 prepay in full the unpaid balance of a consumer credit sale,
 32 refinancing, or consolidation at any time without penalty.

33 (b) At the time of prepayment of a credit sale not subject to the
 34 provisions of rebate upon prepayment set forth in section 12 of this
 35 chapter, the total credit service charge:

- 36 (1) including the prepaid credit service charge; but
 37 (2) subject to section 4(m) of this chapter, excluding the
 38 nonrefundable prepaid finance charge allowed under section
 39 4(k) of this chapter, in the case of a sale agreement entered
 40 into after June 30, 2020;

41 may not exceed the maximum charge allowed under this chapter
 42 for the period the credit sale was in effect.

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1 (c) The creditor or mortgage servicer shall provide, in writing,
 2 an accurate payoff amount for the consumer credit sale to the
 3 debtor within seven (7) business days (excluding legal public
 4 holidays, Saturdays, and Sundays) after the creditor or mortgage
 5 servicer receives the debtor's written request for the accurate
 6 consumer credit sale payoff amount. A payoff statement provided
 7 by a creditor or mortgage servicer under this subsection must show
 8 the date the statement was prepared and itemize the unpaid
 9 principal balance and each fee, charge, or other sum included
 10 within the payoff amount. A creditor or mortgage servicer who
 11 fails to provide the accurate consumer credit sale payoff amount
 12 is liable for:

13 (1) one hundred dollars (\$100) if an accurate consumer
 14 credit sale payoff amount is not provided by the creditor or
 15 mortgage servicer within seven (7) business days (excluding
 16 legal public holidays, Saturdays, and Sundays) after the
 17 creditor or mortgage servicer receives the debtor's first
 18 written request; and

19 (2) the greater of:

20 (A) one hundred dollars (\$100); or

21 (B) the credit service charge that accrues on the sale
 22 from the date the creditor or mortgage servicer receives
 23 the first written request until the date on which the
 24 accurate consumer credit sale payoff amount is
 25 provided;

26 if an accurate consumer credit sale payoff amount is not
 27 provided by the creditor or mortgage servicer within seven
 28 (7) business days (excluding legal public holidays, Saturdays,
 29 and Sundays) after the creditor or mortgage servicer
 30 receives the debtor's second written request, and the creditor
 31 or mortgage servicer failed to comply with subdivision (1).

32 A liability under this subsection is an excess charge under
 33 IC 37-2-6-9.

34 (d) As used in this subsection, "mortgage transaction" means
 35 a consumer credit sale in which a mortgage or a land contract (or
 36 another consensual security interest equivalent to a mortgage or a
 37 land contract) that constitutes a lien is created or retained against
 38 land upon which there is constructed or intended to be constructed
 39 a dwelling that is or will be used by the debtor primarily for
 40 personal, family, or household purposes. This subsection applies to
 41 a mortgage transaction with respect to which any installment or
 42 minimum payment due is delinquent for at least sixty (60) days.

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1 The creditor, servicer, or the creditor's agent shall acknowledge a
 2 written offer made in connection with a proposed short sale not
 3 later than five (5) business days (excluding legal public holidays,
 4 Saturdays, and Sundays) after the date of the offer if the offer
 5 complies with the requirements for a qualified written request set
 6 forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or
 7 creditor's agent is required to acknowledge a written offer made
 8 in connection with a proposed short sale from a third party acting
 9 on behalf of the debtor only if the debtor has provided written
 10 authorization for the creditor, servicer, or creditor's agent to do so.
 11 Not later than thirty (30) business days (excluding legal public
 12 holidays, Saturdays, and Sundays) after receipt of an offer under
 13 this subsection, the creditor, servicer, or creditor's agent shall
 14 respond to the offer with an acceptance or a rejection of the offer.
 15 The thirty (30) day period described in this subsection may be
 16 extended for not more than fifteen (15) business days (excluding
 17 legal public holidays, Saturdays, and Sundays) if, before the end of
 18 the thirty (30) day period, the creditor, the servicer, or the
 19 creditor's agent notifies the debtor of the extension and the reason
 20 the extension is needed. Payment accepted by a creditor, servicer,
 21 or creditor's agent in connection with a short sale constitutes
 22 payment in full satisfaction of the mortgage transaction unless the
 23 creditor, servicer, or creditor's agent obtains either:

- 24 (1) a statement that: "The debtor remains liable for any
 25 amount still owed under the mortgage transaction."; or
 26 (2) a statement substantially similar to the statement set
 27 forth in subdivision (1);

28 acknowledged by the initials or signature of the debtor, on or
 29 before the date on which the short sale payment is accepted. As
 30 used in this subsection, "short sale" means a transaction in which
 31 the property that is the subject of a mortgage transaction is sold
 32 for an amount that is less than the amount of the debtor's
 33 outstanding obligation under the mortgage transaction. A creditor
 34 or mortgage servicer that fails to respond to an offer within the
 35 time prescribed by this subsection is liable in accordance with 12
 36 U.S.C. 2605(f) in any action brought under that section.

37 (e) This section is not intended to provide the owner of real
 38 estate subject to the issuance of process under a judgment or
 39 decree of foreclosure any protection or defense against a deficiency
 40 judgment for purposes of the borrower protections from liability
 41 that must be disclosed under 12 CFR 1026.38(p)(3) on the form
 42 required by 12 CFR 1026.38 ("Closing Disclosures" form under

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1 the Amendments to the 2013 Integrated Mortgage Disclosures Rule
 2 Under the Real Estate Settlement Procedures Act (Regulation X)
 3 and the Truth In Lending Act (Regulation Z) and the 2013 Loan
 4 Originator Rule Under the Truth in Lending Act (Regulation Z)).

5 Sec. 12. (a) Except for subsections (b) and (i), this section
 6 applies only to a sale agreement entered into before July 1, 2020.
 7 Except as provided in subsection (b), upon prepayment in full of
 8 the unpaid balance of a precomputed consumer credit sale,
 9 refinancing, or consolidation, an amount not less than the
 10 unearned portion of the credit service charge calculated according
 11 to this section shall be rebated to the buyer. If the rebate required
 12 is less than one dollar (\$1), no rebate need be made.

13 (b) Upon prepayment in full of a consumer credit sale,
 14 refinancing, or consolidation, other than one pursuant to a
 15 revolving charge account, if the credit service charge then earned
 16 is less than any permitted minimum credit service charge under
 17 section 4(h) of this chapter contracted for, whether or not the sale,
 18 refinancing, or consolidation is precomputed, the seller may collect
 19 or retain the minimum charge, as if earned, not exceeding the
 20 credit service charge contracted for.

21 (c) The unearned portion of the credit service charge is a
 22 fraction of the credit service charge of which the numerator is the
 23 sum of the periodic balances scheduled to follow the computational
 24 period in which prepayment occurs, and the denominator is the
 25 sum of all periodic balances under either the sale agreement or, if
 26 the balance owing resulted from a refinancing (section 8 of this
 27 chapter) or a consolidation (section 9 of this chapter), under the
 28 refinancing agreement or consolidation agreement.

29 (d) In this section:

30 (1) "periodic balance" means the amount scheduled to be
 31 outstanding on the last day of a computational period before
 32 deducting the payment, if any, scheduled to be made on that
 33 day;

34 (2) "computational period" means one (1) month if one-half
 35 (1/2) or more of the intervals between scheduled payments
 36 under the agreement is one (1) month or more, and otherwise
 37 means one (1) week;

38 (3) the "interval" to the due date of the first scheduled
 39 installment or the final scheduled payment date is measured
 40 from the date of a sale, refinancing, or consolidation, or any
 41 later date prescribed for calculating maximum credit service
 42 charges under section 4(e) of this chapter and includes either

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1 the first or last day of the interval; and

2 (4) if the interval to the due date of the first scheduled
3 installment does not exceed one (1) month by more than
4 fifteen (15) days when the computational period is one (1)
5 month, or eleven (11) days when the computational period is
6 one (1) week, the interval shall be considered as one (1)
7 computational period.

8 (e) This subsection applies only if the schedule of payments is
9 not regular.

10 (1) If the computational period is one (1) month and:

11 (A) if the number of days in the interval to the due date
12 of the first scheduled installment is less than one (1)
13 month by more than five (5) days, or more than one (1)
14 month by more than five (5) but not more than fifteen
15 (15) days, the unearned credit service charge shall be
16 increased by an adjustment for each day by which the
17 interval is less than one (1) month and, at the option of
18 the seller, may be reduced by an adjustment for each
19 day by which the interval is more than one (1) month;
20 the adjustment for each day shall be one-thirtieth (1/30)
21 of that part of the credit service charge earned in the
22 computational period prior to the due date of the first
23 scheduled installment assuming that period to be one (1)
24 month; and

25 (B) if the interval to the final scheduled payment date is
26 a number of computational periods plus an additional
27 number of days less than a full month, the additional
28 number of days shall be considered a computational
29 period only if sixteen (16) days or more. This clause
30 applies whether or not clause (A) applies.

31 (2) Notwithstanding subdivision (1), if the computational
32 period is one (1) month, the number of days in the interval to
33 the due date of the first installment exceeds one (1) month by
34 not more than fifteen (15) days, and the schedule of
35 payments is otherwise regular, the seller, at the seller's
36 option, may exclude the extra days and the charge for the
37 extra days in computing the unearned credit service charge;
38 but if the seller does so and a rebate is required before the
39 due date of the first scheduled installment, the seller shall
40 compute the earned charge for each elapsed day as
41 one-thirtieth (1/30) of the amount the earned charge would
42 have been if the first interval had been one (1) month.

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- (3) If the computational period is one (1) week and:**
 - (A) if the number of days in the interval to the due date of this first scheduled installment is less than five (5) days or more than nine (9) days but not more than eleven (11) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) week; and**
 - (B) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This clause applies whether or not clause (A) applies.**

(f) If a deferral under section 7 of this chapter has been agreed to, the unearned portion of the credit service charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the credit service charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the credit service charge or shall be added to the unpaid balance.

(g) This section does not preclude the collection or retention by the seller of delinquency charges under section 6 of this chapter.

(h) If the maturity is accelerated for any reason and judgment is obtained, the buyer is entitled to the same rebate as if payment had been made on the date judgment is entered.

(i) Upon prepayment in full of a consumer credit sale by the proceeds of consumer credit insurance, the buyer or the buyer's estate shall pay the same credit service charge or receive the same rebate as though the buyer had prepaid the agreement on the date the proceeds of the insurance are paid to the seller, but no later than ten (10) business days after satisfactory proof of loss is furnished to the seller. This subsection applies whether or not the

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1 credit sale is precomputed.

2 (j) Upon prepayment in full of a transaction with a term of
3 more than sixty-one (61) months, the unearned part of the credit
4 service charge shall be computed by applying the disclosed annual
5 percentage rate that would yield the credit service charge
6 originally contracted for to the unpaid balances of the amount
7 financed for the full computational periods following the
8 prepayment, as originally scheduled or as deferred.

9 Sec. 13. (a) For purposes of this section, "consumer credit
10 sale" includes a sale that is a sale of an interest in land and that is
11 a first lien mortgage transaction if the sale is otherwise a consumer
12 credit sale.

13 (b) The seller shall disclose to the buyer to whom credit is
14 extended with respect to a consumer credit sale, and the lessor
15 shall disclose to the lessee with respect to a consumer lease, the
16 information required by the Consumer Credit Protection Act (15
17 U.S.C. 1601 et seq.).

18 (c) For purposes of subsection (b), disclosures shall not be
19 required on a consumer credit sale if the transaction is exempt
20 from the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

21 Sec. 14. A seller may not use multiple agreements with intent
22 to obtain a higher credit service charge than would otherwise be
23 permitted by this article or to avoid disclosure of an annual
24 percentage rate pursuant to section 13 of this chapter. The excess
25 amount of credit service charge provided for in agreements in
26 violation of this section is an excess charge for the purposes of the
27 provisions on the effect of violations on rights of parties
28 (IC 37-2-6-9) and the provisions on civil actions by the department
29 (IC 37-2-7-14).

30 Sec. 15. (a) For the purposes of this section, "terms of the
31 refinancing" means:

32 (1) in the case of a fixed-rate consumer credit sale, the
33 individual payment amounts, the charges as a result of
34 default by the buyer, and the rate of the credit service
35 charge; and

36 (2) in the case of a variable rate consumer credit sale, the
37 method used to determine the individual payment amounts,
38 the charges as a result of default by the buyer, the method
39 used to determine the rate of the credit service charge, the
40 circumstances under which the rate of the credit service
41 charge may increase, and any limitations on the increase in
42 the rate of the credit service charge.

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1 (b) With respect to a consumer credit sale, other than one
 2 pursuant to a revolving charge account or one on which only credit
 3 service charges are payable before the time that the final scheduled
 4 payment is due, if any scheduled payment is more than twice as
 5 large as the average of earlier scheduled payments, the buyer has
 6 the right to refinance the amount of that payment at the time it is
 7 due without penalty. The terms of the refinancing shall be no less
 8 favorable to the buyer than the terms of the original sale. This
 9 section does not apply to the extent that the payment schedule is
 10 adjusted to the seasonal or irregular income of the buyer.

11 Sec. 16. The obligation of a lessee upon expiration of a
 12 consumer lease may not exceed three (3) times the average
 13 payment allocable to a monthly period under the lease. This
 14 limitation does not apply to charges for damages to the leased
 15 property or for other default.

16 Sec. 17. (a) With respect to a consumer credit sale, a seller may
 17 take a security interest in the property sold. In addition, a seller
 18 may take a security interest in goods upon which services are
 19 performed or in which goods sold are installed or to which they are
 20 annexed, or in land to which the goods are affixed or which is
 21 maintained, repaired, or improved as a result of the sale of the
 22 goods or services, if, in the case of a subordinate lien mortgage
 23 transaction, the debt secured is four thousand dollars (\$4,000) or
 24 more, or, in the case of a security interest in goods the debt secured
 25 is three hundred dollars (\$300) or more. Except as provided with
 26 respect to cross-collateral in section 19 of this chapter, a seller may
 27 not otherwise take a security interest in property of the buyer to
 28 secure the debt arising from a consumer credit sale.

29 (b) With respect to a consumer lease, a lessor may not take a
 30 security interest in property of the lessee to secure the debt arising
 31 from the lease.

32 (c) A security interest taken in violation of this section is void.

33 (d) The amounts of four thousand dollars (\$4,000) and three
 34 hundred dollars (\$300) in subsection (a) are subject to change
 35 pursuant to the provisions on adjustment of dollar amounts in
 36 IC 37-2-1-5. However, notwithstanding IC 37-2-1-5(a), the
 37 Reference Base Index to be used with respect to the amount of:

38 (1) three hundred dollars (\$300) is the Index for October
 39 1992; and

40 (2) four thousand dollars (\$4,000) is the Index for October
 41 2012.

42 Sec. 18. The leasing of live domestic animals (as defined in

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1 IC 34-30-30-1) under this chapter is prohibited.
 2 Sec. 19. (a) As used in this section, "seller" does not include an
 3 assignee not related to the original seller.
 4 (b) In addition to contracting for a security interest pursuant
 5 to the provisions on security in sales or leases in section 17 of this
 6 chapter, a seller in a consumer credit sale may secure the debt
 7 arising from the sale by contracting for a security interest in other
 8 property if as a result of a prior sale the seller has an existing
 9 security interest in the other property. The seller may also contract
 10 for a security interest in the property sold in the subsequent sale as
 11 security for the previous debt.
 12 (c) If the seller contracts for a security interest in other
 13 property pursuant to this section, the rate of credit service charge
 14 thereafter on the aggregate unpaid balances so secured may not
 15 exceed that permitted if the balances so secured were consolidated
 16 pursuant to the provisions on consolidation involving a refinancing
 17 in section 9(a) of this chapter. The seller has a reasonable time
 18 after so contracting to make any adjustments required by this
 19 section.
 20 Sec. 20. (a) If debts arising from two (2) or more consumer
 21 credit sales, other than sales pursuant to a revolving charge
 22 account, are secured by cross-collateral under section 19 of this
 23 chapter or consolidated into one (1) debt payable on a single
 24 schedule of payments, and the debt is secured by security interests
 25 taken with respect to one (1) or more of the sales, payments
 26 received by the seller after the taking of the cross-collateral or the
 27 consolidation are deemed, for the purpose of determining the
 28 amount of the debt secured by the various security interests, to
 29 have been first applied to the payment of the debts arising from the
 30 sales first made. To the extent debts are paid according to this
 31 section, security interests in items of property terminate as the debt
 32 originally incurred with respect to each item is paid.
 33 (b) Payments received by the seller upon a revolving charge
 34 account are deemed, for the purpose of determining the amount of
 35 the debt secured by the various security interests, to have been
 36 applied first to the payment of credit service charges in the order
 37 of their entry to the account and then to the payment of debts in
 38 the order in which the entries to the account showing the debts
 39 were made.
 40 (c) If the debts consolidated arose from two (2) or more sales
 41 made on the same day, payments received by the seller are deemed,
 42 for the purpose of determining the amount of the debts secured by

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1 the various security interests, to have been applied first to the
2 payment of the smallest debt.

3 **Sec. 21.** A seller or lessor may not take an assignment of
4 earnings of the buyer or lessee for payment or as security for
5 payment of a claim, whether arising out of a consumer credit sale,
6 consumer lease, or otherwise. An assignment of earnings in
7 violation of this section is unenforceable by the assignees of the
8 earnings and revocable by the buyer or lessee. This section does not
9 prohibit an employee from authorizing deductions from the
10 employee's earnings if the authorization is revocable and is
11 otherwise permitted by law.

12 **Sec. 22.** With respect to a consumer credit sale or consumer
13 lease the seller or lessor may not give or offer to give a rebate or
14 discount or otherwise pay or offer to pay value to the buyer or
15 lessee as an inducement for a sale or lease in consideration of the
16 buyer or lessee giving to the seller or lessor the names of
17 prospective purchasers or lessees, or otherwise aiding the seller or
18 lessor in making a sale or lease to another person, if the earning of
19 the rebate, discount or other value is contingent upon the
20 occurrence of an event subsequent to the time the buyer or lessee
21 agrees to buy or lease. If a buyer or lessee is induced by a violation
22 of this section to enter into a consumer credit sale or consumer
23 lease, the agreement is unenforceable by the seller or lessor and the
24 buyer or lessee, at the buyer's or lessee's option, may rescind the
25 agreement or retain the goods delivered and the benefit of any
26 services performed, without any obligation to pay for them.

27 **Sec. 23.** The buyer or lessee is authorized to pay the original
28 seller or lessor until the buyer or lessee receives notification of
29 assignment of the rights to payment pursuant to a consumer credit
30 sale or consumer lease and that payment is to be made to the
31 assignee. A notification which does not reasonably identify the
32 rights assigned is ineffective. If requested by the buyer or lessee,
33 the assignee must seasonably furnish reasonable proof that the
34 assignment has been made and unless the assignee does so the
35 buyer or lessee may pay the seller or lessor.

36 **Sec. 24.** With respect to a consumer credit sale or consumer
37 lease the agreement may provide for the payment by the buyer or
38 lessee of reasonable attorney's fees and after default and referral
39 to an attorney not a salaried employee of the seller, or of the lessor
40 or the lessor's assignee. A provision in violation of this section is
41 unenforceable.

42 **Sec. 25.** Except for reasonable expenses incurred in realizing

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1 on a security interest, the agreement with respect to a consumer
2 credit sale may not provide for any charges as a result of default by
3 the buyer other than those authorized by this article. A provision
4 in violation of this section is unenforceable.

5 Sec. 26. A buyer or lessee may not authorize any person to
6 confess judgment on a claim arising out of a consumer credit sale
7 or consumer lease. An authorization in violation of this section is
8 void.

9 Sec. 27. (a) This section applies to consumer credit sales,
10 including revolving charge accounts.

11 (b) Except as provided in subsection (c), a creditor shall credit
12 a payment to a consumer's account as of the date of receipt, except
13 when a delay in crediting does not result in a finance charge or
14 other charge, including a delinquency charge under section 6 of
15 this chapter. A delay in posting does not violate this section so long
16 as the payment is credited as of the date of receipt.

17 (c) If a creditor specifies in writing requirements for the
18 consumer to follow in making payments, but accepts a payment
19 that does not conform to the requirements, the creditor shall credit
20 the payment within five (5) days of receipt of the payment.

21 (d) If a creditor fails to credit a payment as required by this
22 section in time to avoid the imposition of a finance or other charge,
23 including a delinquency charge, the creditor shall adjust the
24 consumer's account so that the charges imposed are credited to the
25 consumer's account during the next payment period.

26 Sec. 28. The requirements of 16 CFR 429 must be met in
27 regard to the following provisions concerning a home solicitation
28 sale:

- 29 (1) Period within which cancellation may be made by the
30 buyer.
- 31 (2) Notice of cancellation.
- 32 (3) Form of cancellation.
- 33 (4) Form of agreement or offer to purchase.
- 34 (5) Statement of buyer's rights.
- 35 (6) Restoration of down payment.
- 36 (7) Retention of cancellation fee.
- 37 (8) Duty of buyer.
- 38 (9) Any other relevant requirements in 16 CFR 429.

39 Sec. 29. The parties to a sale other than a consumer credit sale
40 may agree in a writing signed by the parties that the sale is subject
41 to the provisions of this article applying to consumer credit sales.
42 If the parties so agree, the sale is a consumer credit sale for the

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1 purposes of this article.

2 Sec. 30. (a) With respect to a consumer related sale not made
3 pursuant to a revolving charge account, the parties may contract
4 for an amount comprising the amount financed and a credit service
5 charge not in excess of twenty-five percent (25%) per year
6 calculated according to the actuarial method on the unpaid
7 balances of the amount financed.

8 (b) With respect to a consumer related sale made pursuant to
9 a revolving charge account, the parties may contract for a credit
10 service charge not in excess of that permitted by the provisions on
11 credit service charge for revolving charge accounts set forth in
12 section 4(f) of this chapter.

13 (c) A person engaged in consumer related sales is not required
14 to comply with IC 37-2-7-24 through IC 37-2-7-26.

15 Sec. 31. Except for the rate of the credit service charge set
16 forth in section 4 of this chapter and the rights to prepay and to
17 rebate upon prepayment, sections 4 through 12 of this chapter
18 apply to a consumer related sale.

19 Sec. 32. (a) An agreement with respect to a consumer related
20 sale may provide for only the following charges as a result of the
21 buyer's default:

22 (1) Reasonable attorney's fees and reasonable expenses
23 incurred in realizing on a security interest.

24 (2) Deferral charges not in excess of twenty-five percent
25 (25%) per year of the amount deferred for the period of
26 deferral.

27 (3) Other charges that could have been made had the sale
28 been a consumer credit sale.

29 (b) A provision in violation of this section is unenforceable.

30 Sec. 33. With respect to a sale other than a consumer credit
31 sale or a consumer related sale, the parties may contract for the
32 payment by the buyer of any credit service charge.

33 Chapter 4. Loans

34 Sec. 0.1. The following amendments to IC 24-4.5-3 (before its
35 repeal) applied as follows:

36 (1) The amendments made to IC 24-4.5-3-201 (before its
37 repeal) by P.L.163-1999 did not apply to consumer loans in
38 existence before July 1, 1999.

39 (2) The amendments made to IC 24-4.5-3-209(1) (before its
40 repeal) by P.L.159-2001 applied to a contract between a
41 lender and a debtor that is entered into or renewed after
42 June 30, 2001.

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1 **Sec. 1. (a) This chapter applies to consumer loans, including**
 2 **supervised loans.**

3 **(b) Sections 15 through 21 of this chapter apply to consumer**
 4 **loans. Except as otherwise provided, all provisions of this article**
 5 **applying to consumer loans apply to supervised loans.**

6 **(c) Sections 41 through 44 of this chapter apply to consumer**
 7 **related loans.**

8 **(d) Except for the rate of the loan finance charge and the**
 9 **rights to prepay and to rebate upon prepayment, sections 4**
 10 **through 13 of this chapter apply to a consumer related loan.**

11 **(e) The licensing provisions of this chapter apply to consumer**
 12 **credit sales under IC 37-2-3 that are subordinate lien mortgage**
 13 **transactions.**

14 **Sec. 2. Unless a loan is made subject to this chapter by**
 15 **agreement under section 41 of this chapter, and except with respect**
 16 **to:**

17 **(1) disclosure (section 14 of this chapter);**

18 **(2) debtors' remedies (IC 37-2-6-8);**

19 **(3) providing payoff amounts (section 12 of this chapter);**

20 **(4) providing property tax information (section 46 of this**
 21 **chapter);**

22 **(5) powers and functions of the department (IC 37-2-7-3);**

23 **(6) the department's examination and investigatory authority**
 24 **(IC 37-2-7-5); and**

25 **(7) the department's administrative enforcement authority**
 26 **(IC 37-2-7-9);**

27 **the term "consumer loan" does not include a first lien mortgage**
 28 **transaction.**

29 **Sec. 3. A loan, refinancing, or consolidation is considered**
 30 **precomputed if the debt is expressed as a sum comprising the**
 31 **principal and the amount of the loan finance charge computed in**
 32 **advance.**

33 **Sec. 4. (a) This section does not apply to a supervised loan.**
 34 **Except as provided in subsections (f) and (i), with respect to a**
 35 **consumer loan, a lender may contract for a loan finance charge,**
 36 **calculated according to the actuarial method, not exceeding**
 37 **twenty-five percent (25%) per year on the unpaid balances of the**
 38 **principal.**

39 **(b) In the case of a loan agreement entered into before July 1,**
 40 **2020, this section does not limit or restrict the manner of**
 41 **contracting for the loan finance charge, whether by way of add-on,**
 42 **discount, or otherwise, so long as the rate of the loan finance**

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1 charge does not exceed that permitted by this section. If the loan is
2 precomputed:

3 (1) the loan finance charge may be calculated on the
4 assumption that all scheduled payments will be made when
5 due; and

6 (2) the effect of prepayment is governed by the provisions on
7 rebate upon prepayment in section 13 of this chapter.

8 (c) The following apply to a loan agreement for a consumer
9 loan (or for the refinancing or consolidation of a consumer loan)
10 that is entered into after June 30, 2020:

11 (1) The consumer loan is subject to this section, including the
12 limitations set forth in:

13 (A) subsection (a) with respect to the loan finance
14 charge; and

15 (B) subsection (i)(2) with respect to the amount of the
16 authorized nonrefundable prepaid finance charge, in the
17 case of a consumer loan that is not secured by an
18 interest in land.

19 (2) The loan finance charge authorized by this section must
20 be:

21 (A) contracted for between the lender and the debtor;
22 and

23 (B) calculated by applying a rate not exceeding the rate
24 set forth in subsection (a) to unpaid balances of the
25 principal.

26 (3) A loan agreement for a precomputed consumer loan is
27 prohibited.

28 (4) Subject to subsection (1), in addition to the loan finance
29 charge authorized by subsection (a) and to any other fees
30 permitted by this chapter, and not subject to the twenty-five
31 percent (25%) rate set forth in subsection (a), the lender may
32 contract for and receive as a condition for, or an incident to,
33 the extension of credit a nonrefundable prepaid finance
34 charge under subsection (i), whether the charge is:

35 (A) paid separately in cash or by check before or at
36 consummation; or

37 (B) withheld from the proceeds of the consumer loan.

38 (d) For the purposes of this section, the term of a loan
39 commences with the date the loan is made. Differences in the
40 lengths of months are disregarded, and a day may be counted as
41 one-thirtieth (1/30) of a month. Subject to classifications and
42 differentiations the lender may reasonably establish, a part of a

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1 month in excess of fifteen (15) days may be treated as a full month
 2 if periods of fifteen (15) days or less are disregarded and if that
 3 procedure is not consistently used to obtain a greater yield than
 4 would otherwise be permitted. For purposes of computing average
 5 daily balances, the creditor may elect to treat all months as
 6 consisting of thirty (30) days.

7 (e) With respect to a consumer loan made pursuant to a
 8 revolving loan account:

9 (1) the loan finance charge shall be deemed not to exceed the
 10 maximum annual percentage rate if the loan finance charge
 11 contracted for and received does not exceed a charge in each
 12 monthly billing cycle which is two and eighty-three
 13 thousandths percent (2.083%) of an amount not greater
 14 than:

15 (A) the average daily balance of the debt;

16 (B) the unpaid balance of the debt on the same day of
 17 the billing cycle; or

18 (C) subject to subsection (f), the median amount within
 19 a specified range within which the average daily balance
 20 or the unpaid balance of the debt, on the same day of the
 21 billing cycle, is included; for the purposes of this clause
 22 and clause (B), a variation of not more than four (4)
 23 days from month to month is "the same day of the
 24 billing cycle";

25 (2) if the billing cycle is not monthly, the loan finance charge
 26 shall be deemed not to exceed the maximum annual
 27 percentage rate if the loan finance charge contracted for and
 28 received does not exceed a percentage which bears the same
 29 relation to one-twelfth (1/12) the maximum annual
 30 percentage rate as the number of days in the billing cycle
 31 bears to thirty (30); and

32 (3) notwithstanding subsection (a), if there is an unpaid
 33 balance on the date as of which the loan finance charge is
 34 applied, the lender may contract for and receive a charge not
 35 exceeding fifty cents (\$0.50) if the billing cycle is monthly or
 36 longer, or the pro rata part of fifty cents (\$0.50) which bears
 37 the same relation to fifty cents (\$0.50) as the number of days
 38 in the billing cycle bears to thirty (30) if the billing cycle is
 39 shorter than monthly, but no charge may be made pursuant
 40 to this subdivision if the lender has made an annual charge
 41 for the same period as permitted by the provisions on
 42 additional charges in section 5(a)(3) of this chapter.

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1 **(f) Subject to classifications and differentiations the lender**
 2 **may reasonably establish, the lender may make the same loan**
 3 **finance charge on all amounts financed within a specified range. A**
 4 **loan finance charge does not violate subsection (a) if:**

5 **(1) when applied to the median amount within each range, it**
 6 **does not exceed the maximum permitted by subsection (a);**
 7 **and**

8 **(2) when applied to the lowest amount within each range, it**
 9 **does not produce a rate of loan finance charge exceeding the**
 10 **rate calculated according to subdivision (1) by more than**
 11 **eight percent (8%) of the rate calculated according to**
 12 **subdivision (1).**

13 **(g) With respect to a consumer loan not made pursuant to a**
 14 **revolving loan account, the lender may contract for and receive a**
 15 **minimum loan finance charge of not more than thirty dollars (\$30).**
 16 **The minimum loan finance charge allowed under this subsection**
 17 **may be imposed only if the lender does not contract for or receive**
 18 **a nonrefundable prepaid finance charge under subsection (i) and:**

19 **(1) the debtor prepays in full a consumer loan, refinancing,**
 20 **or consolidation, regardless of whether the loan, refinancing,**
 21 **or consolidation is precomputed;**

22 **(2) the loan, refinancing, or consolidation prepaid by the**
 23 **debtor is subject to a loan finance charge that:**

24 **(A) is contracted for by the parties; and**

25 **(B) does not exceed the rate prescribed in subsection (a);**
 26 **and**

27 **(3) the loan finance charge earned at the time of prepayment**
 28 **is less than the minimum loan finance charge contracted for**
 29 **under this subsection.**

30 **(h) The amount of thirty dollars (\$30) in subsection (g) is**
 31 **subject to change under the provisions on adjustment of dollar**
 32 **amounts set forth in IC 37-2-1-5. However, notwithstanding**
 33 **IC 37-2-1-5(a), the Reference Base Index to be used under this**
 34 **subsection is the Index for October 1992.**

35 **(i) Except as provided in subsection (g), and subject to**
 36 **subsection (l), in addition to the loan finance charge authorized by**
 37 **subsection (a) and to any other charges and fees permitted by this**
 38 **chapter, a lender may contract for and receive a nonrefundable**
 39 **prepaid finance charge of not more than the following:**

40 **(1) In the case of a consumer loan that is secured by an**
 41 **interest in land and that:**

42 **(A) is not made under a revolving loan account, three**

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percent (3%) of the loan amount; or
(B) is made under a revolving loan account, three percent (3%) of the line of credit.

(2) In the case of consumer loan that is not secured by an interest in land, fifty dollars (\$50) if the loan agreement is entered into before July 1, 2020. If the loan agreement is entered into after June 30, 2020, not more than the following:

(A) Seventy-five dollars (\$75), in the case of a loan agreement for a principal amount which is two thousand dollars (\$2,000) or less.

(B) One hundred fifty dollars (\$150) in the case of a loan agreement for a principal amount which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000).

(C) Two hundred dollars (\$200) in the case of a loan agreement for a principal amount which is more than four thousand dollars (\$4,000).

The amounts in this subsection are not subject to change under IC 37-2-1-5.

(j) The nonrefundable prepaid finance charge provided for in subsection (i) is not subject to refund or rebate. However, for any loan entered into after June 30, 2020, any amount charged by the lender, other than by a lender that is a depository institution, under subsection (i) that exceeds the applicable amount permitted by subsection (i)(2) constitutes a violation of this article under IC 37-2-7-8(12) and is subject to refund. Any amount charged by a depository institution under subsection (i) that exceeds the applicable amount set forth in subsection (i)(2) is subject to refund.

(k) If the director determines that a lender's accrual method of accounting as applied to a consumer loan under this section involves the application of subterfuge for the purpose of circumventing this chapter, the director may conform the loan finance charge and fees for the transaction to the limitations set forth in this section and may require a refund of overcharges under IC 37-2-7-5(b)(1). A determination by the director under this subsection:

- (1) must be in writing;
- (2) shall be delivered to all parties in the transaction; and
- (3) is subject to IC 4-21.5-3.

(l) At the time of consummation of a consumer loan:
(1) the loan finance charge authorized by subsection (a); and

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1 (2) the nonrefundable prepaid finance charge authorized by
 2 subsection (i) (including any amount charged by a depository
 3 institution that exceeds the applicable amount set forth in
 4 subsection (i)(2));
 5 are subject to IC 35-45-7 and, when combined, may not exceed the
 6 rate set forth in IC 35-45-7-2.

7 (m) Notwithstanding subsections (i) and (j), in the case of a
 8 consumer loan that is not secured by an interest in land, if a lender
 9 retains any part of a nonrefundable prepaid finance charge
 10 charged on a loan that is paid in full by a new loan from the same
 11 lender, the following apply:

12 (1) If the loan is paid in full by the new loan within three (3)
 13 months after the date of the prior loan, the lender may not
 14 charge a nonrefundable prepaid finance charge on the new
 15 loan, or, in the case of a revolving loan, on the increased
 16 credit line.

17 (2) The lender may not assess more than two (2)
 18 nonrefundable prepaid finance charges in any twelve (12)
 19 month period.

20 (3) Subject to subdivisions (1) and (2), if a loan that is
 21 entered into by a lender and a debtor before July 1, 2020, is
 22 paid in full by a new loan from the same lender after June
 23 30, 2020, the lender may contract for and receive a
 24 nonrefundable prepaid finance charge in the amount set
 25 forth in subsection (i)(2) for loan agreements entered into
 26 after June 30, 2020.

27 (n) In the case of a consumer loan that is secured by an interest
 28 in land, this section does not prohibit a lender from contracting for
 29 and receiving a fee for preparing deeds, mortgages, reconveyances,
 30 and similar documents under section 5(a)(4)(B) of this chapter, in
 31 addition to the nonrefundable prepaid finance charge provided for
 32 in subsection (i).

33 Sec. 5. (a) In addition to the loan finance charge permitted by
 34 this chapter, a lender may contract for and receive the following
 35 additional charges in connection with a consumer loan:

36 (1) Official fees and taxes.

37 (2) Charges for insurance as described in subsection (b).

38 (3) Annual participation fees assessed in connection with a
 39 revolving loan account. Annual participation fees must:

40 (A) be reasonable in amount;

41 (B) bear a reasonable relationship to the lender's costs
 42 to maintain and monitor the loan account; and

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(C) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(4) With respect to a debt secured by an interest in land, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(A) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(B) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.

(C) Notary and credit report fees.

(D) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the loan finance charge.

(E) Appraisal fees.

(5) Notwithstanding provisions of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) concerning disclosure, charges for other benefits, including insurance, conferred on the debtor, if the benefits are of value to the debtor and if the charges are reasonable in relation to the benefits, and are excluded as permissible additional charges from the loan finance charge. With respect to any other additional charge not specifically provided for in this section to be a permitted charge under this subsection, the creditor must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the debtor. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the debtor and is reasonable in relation to the benefits.

(6) A charge not to exceed twenty-five dollars (\$25) for each returned payment by a bank or other depository institution of a dishonored check, electronic funds transfer, negotiable order of withdrawal, or share draft issued by the debtor.

(7) With respect to a revolving loan account, a fee not to exceed twenty-five dollars (\$25) in each billing cycle during which the balance due under the revolving loan account exceeds by more than one hundred dollars (\$100) the maximum credit limit for the account established by the lender.

(8) With respect to a revolving loan account, a transaction fee that may not exceed the greater of the following:

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- 1 (A) Two percent (2%) of the amount of the transaction.
- 2 (B) Ten dollars (\$10).
- 3 **(9) A charge not to exceed twenty-five dollars (\$25) for a**
- 4 **skip-a-payment service, subject to the following:**
- 5 (A) At the time of use of the service, the consumer must
- 6 be given written notice of the amount of the charge and
- 7 must acknowledge the amount in writing, including by
- 8 electronic signature.
- 9 (B) A charge for a skip-a-payment service may not be
- 10 assessed with respect to a consumer loan subject to the
- 11 provisions on rebate upon prepayment that are set forth
- 12 in section 13 of this chapter.
- 13 (C) A charge for a skip-a-payment service may not be
- 14 assessed with respect to any payment for which a
- 15 delinquency charge has been assessed under section 6 of
- 16 this chapter.
- 17 **(10) A charge not to exceed ten dollars (\$10) for an optional**
- 18 **expedited payment service, subject to the following:**
- 19 (A) The charge may be assessed only upon request by
- 20 the consumer to use the expedited payment service.
- 21 (B) The amount of the charge must be disclosed to the
- 22 consumer at the time of the consumer's request to use
- 23 the expedited payment service.
- 24 (C) The consumer must be informed that the consumer
- 25 retains the option to make a payment by traditional
- 26 means.
- 27 (D) The charge may not be established in advance,
- 28 through any agreement with the consumer, as the
- 29 expected method of payment.
- 30 (E) The charge may not be assessed with respect to any
- 31 payment for which a delinquency charge has been
- 32 assessed under section 6 of this chapter.
- 33 **(11) A charge for a GAP agreement, subject to subsection (c).**
- 34 **(12) With respect to consumer loans made by a person**
- 35 **exempt from licensing under section 24(a) of this chapter, a**
- 36 **charge for a debt cancellation agreement, subject to the**
- 37 **following:**
- 38 (A) A debt cancellation agreement or debt cancellation
- 39 coverage may not be required by the lender, and that
- 40 fact must be disclosed in writing to the consumer.
- 41 (B) The charge for the initial term of coverage under the
- 42 debt cancellation agreement must be disclosed in writing

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to the consumer. The charge may be disclosed on a unit-cost basis only in the case of revolving loan accounts, closed-end credit transactions if the request for coverage is made by mail or telephone, and closed-end credit transactions if the debt cancellation agreement limits the total amount of indebtedness eligible for coverage.

(C) If the term of coverage under the debt cancellation agreement is less than the term of the consumer loan, the term of coverage under the debt cancellation agreement must be disclosed in writing to the consumer.

(D) The consumer must sign or initial an affirmative written request for coverage after receiving all required disclosures.

(E) If debt cancellation coverage for two (2) or more events is provided for in a single charge under a debt cancellation agreement, the entire charge may be excluded from the loan finance charge and imposed as an additional charge under this section if at least one (1) of the events is the loss of life, health, or income.

The additional charges provided for in subdivisions (7) through (10) are not subject to refund or rebate.

(b) An additional charge may be made for insurance in connection with the loan, other than insurance protecting the lender against the debtor's default or other credit loss:

(1) with respect to insurance against loss of or damage to property or against liability, if the lender furnishes a clear and specific statement in writing to the debtor, setting forth the cost of the insurance if obtained from or through the lender and stating that the debtor may choose the person, subject to the lender's reasonable approval, through whom the insurance is to be obtained; and

(2) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the lender of the extension of credit and this fact is clearly disclosed in writing to the debtor, and if, in order to obtain the insurance in connection with the extension of credit, the debtor gives specific affirmative written indication of the desire to do so after written disclosure of the cost of the insurance.

(c) An additional charge may be made for a GAP agreement,

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- 1 subject to the following:
- 2 (1) A GAP agreement or GAP coverage may not be required
- 3 by the lender, and that fact must be disclosed in writing to
- 4 the consumer.
- 5 (2) The charge for the initial term of coverage under the
- 6 GAP agreement must be disclosed in writing to the
- 7 consumer. The charge may be disclosed on a unit-cost basis
- 8 only in the case of the following transactions:
- 9 (A) Revolving loan accounts.
- 10 (B) Closed-end credit transactions, if the request for
- 11 coverage is made by mail or telephone.
- 12 (C) Closed-end credit transactions, if the GAP
- 13 agreement limits the total amount of indebtedness
- 14 eligible for coverage.
- 15 (3) If the term of coverage under the GAP agreement is less
- 16 than the term of the consumer loan, the term of coverage
- 17 under the GAP agreement must be disclosed in writing to the
- 18 consumer.
- 19 (4) The consumer must sign or initial an affirmative written
- 20 request for coverage after receiving all required disclosures.
- 21 (5) The GAP agreement must include the following:
- 22 (A) In the case of GAP coverage for a new motor
- 23 vehicle, the manufacturer's suggested retail price
- 24 (MSRP) for the motor vehicle.
- 25 (B) In the case of GAP coverage for a used motor
- 26 vehicle, the average retail value for the motor vehicle, as
- 27 determined by use of a third party valuation service
- 28 provider that is customarily relied upon in the used
- 29 motor vehicle commercial marketplace.
- 30 (C) The name of the financing entity taking assignment
- 31 of the agreement, as applicable.
- 32 (D) The name and address of the consumer.
- 33 (E) The name of the lender selling the agreement.
- 34 (F) Information advising the consumer that the
- 35 consumer may be able to obtain similar coverage from
- 36 the consumer's primary insurance carrier.
- 37 (G) A coverage provision that includes a minimum
- 38 deductible of five hundred dollars (\$500).
- 39 (H) A provision providing for a minimum thirty (30) day
- 40 trial period.
- 41 (I) In the case of a consumer loan made with respect to
- 42 a motor vehicle, a provision excluding the sale of GAP

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1 coverage if the amount financed under the consumer
 2 loan (not including the cost of the GAP agreement, the
 3 cost of any credit insurance, and the cost of any
 4 warranties or service agreements) is less than eighty
 5 percent (80%) of the manufacturer's suggested retail
 6 price (MSRP), in the case of a new motor vehicle, or of
 7 the average retail value (as determined by use of a third
 8 party valuation service provider that is customarily
 9 relied upon in the used motor vehicle commercial
 10 marketplace), in the case of a used motor vehicle.

11 (J) In the case of a GAP agreement in which the charge
 12 for the agreement exceeds four hundred dollars (\$400),
 13 specific instructions that may be used by the consumer
 14 to cancel the agreement and obtain a refund of the
 15 unearned GAP charge before prepayment in full, in
 16 accordance with the procedures, and subject to the
 17 conditions, set forth in subdivision (6).

18 (6) If the charge for the GAP agreement exceeds four
 19 hundred dollars (\$400), the consumer is entitled to cancel the
 20 agreement and obtain a refund of the unearned GAP charge
 21 before prepayment in full. Refunds of unearned GAP
 22 charges shall be made subject to the following conditions:

23 (A) A refund of the charge for a GAP agreement must
 24 be calculated using a method that is no less favorable to
 25 the consumer than a refund calculated on a pro rata
 26 basis.

27 (B) The consumer is entitled to a refund of the unearned
 28 GAP agreement charge as outlined in the GAP
 29 agreement.

30 (C) The seller of the GAP agreement, or the seller's
 31 assignee, is responsible for making a timely refund to
 32 the consumer of unearned GAP agreement charges
 33 under the terms and conditions of the GAP agreement.

34 (7) Upon prepayment in full of the consumer loan:

35 (A) the GAP coverage is automatically terminated; and

36 (B) the seller of the GAP agreement must issue a refund
 37 in accordance with subdivision (6).

38 (8) A lender that sells GAP agreements must:

39 (A) insure its GAP agreement obligations under a
 40 contractual liability insurance policy issued by an
 41 insurer authorized to engage in the insurance business
 42 in Indiana; and



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(B) retain appropriate records, as required under this article, regarding GAP agreements sold, refunded, and expired.

Sec. 6. (a) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than the following:

(1) Five dollars (\$5) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, in the case of a consumer loan, refinancing, or consolidation that is made before July 1, 2019. The amount of five dollars (\$5) in this subdivision is subject to change under IC 37-2-1-5. In addition, the parties may provide by contract for a delinquency charge that is subject to change. If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose in the contract that the amount of the delinquency charge is subject to change under IC 37-2-1-5 or this section.

(2) In the case of a consumer loan, refinancing, or consolidation that is made after June 30, 2019, the following:

(A) Five dollars (\$5) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, if installments under the consumer loan, refinancing, or consolidation are due every fourteen (14) days or less. The amount of five dollars (\$5) in this clause is not subject to change under IC 37-2-1-5.

(B) Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, if installments under the consumer loan, refinancing, or consolidation are due every fifteen (15) days or more. The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 37-2-1-5.

(C) Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, in the case of a consumer loan, refinancing, or consolidation that is payable in a single installment that is due at least thirty (30) days after the consumer loan, refinancing, or consolidation is made. The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 37-2-1-5.

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1 (b) A delinquency charge under this section may be collected
 2 only once on an installment however long it remains in default.
 3 With regard to a delinquency charge on consumer loans made
 4 under a revolving loan account, the delinquency charge may be
 5 applied each month that the payment is less than the minimum
 6 required payment on the account. A delinquency charge may be
 7 collected any time after it accrues. A delinquency charge may not
 8 be collected if:

9 (1) the installment has been deferred and a deferral charge
 10 under section 7 of this chapter has been paid or incurred;

11 (2) a charge for a skip-a-payment service under section
 12 5(a)(9) of this chapter has been paid or incurred, as provided
 13 in section 5(a)(9)(C) of this chapter; or

14 (3) a charge for an optional expedited payment service under
 15 section 5(a)(10) of this chapter has been paid or incurred, as
 16 provided in section 5(a)(10)(E) of this chapter.

17 (c) A creditor may not, directly or indirectly, charge or collect
 18 a delinquency charge on a payment that:

19 (1) is paid not later than ten (10) days after its scheduled due
 20 date; and

21 (2) is otherwise a full payment of the payment due for the
 22 applicable installment period;

23 if the only delinquency with respect to the consumer loan,
 24 refinancing, or consolidation is attributable to a delinquency
 25 charge assessed on an earlier installment.

26 (d) If two (2) or more installments, or parts of two (2) or more
 27 installments, of a precomputed loan are in default for ten (10) days
 28 or more, the lender may elect to convert the loan from a
 29 precomputed loan to a loan in which the finance charge is based on
 30 unpaid balances. A lender that makes this election shall make a
 31 rebate under the provisions on rebates upon prepayment set forth
 32 in section 13 of this chapter as of the maturity date of the first
 33 delinquent installment, and thereafter may make a loan finance
 34 charge as authorized by the provisions on loan finance charges for
 35 consumer loans (section 4 of this chapter) or supervised loans
 36 (section 35 of this chapter). The amount of the rebate shall not be
 37 reduced by the amount of any permitted minimum charge under
 38 section 13 of this chapter. Any deferral charges made on
 39 installments due at or after the maturity date of the first delinquent
 40 installment shall be rebated, and no further deferral charges shall
 41 be made.

42 Sec. 7. (a) This section applies only to a consumer loan,

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1 refinancing, or consolidation, that is entered into before July 1,
 2 2020. With respect to a precomputed consumer loan, refinancing,
 3 or consolidation, the parties before or after default may agree in
 4 writing to a deferral of all or part of one (1) or more unpaid
 5 installments, and the lender may make and collect a charge not
 6 exceeding the lesser of thirty-six percent (36%) per year or the rate
 7 previously stated to the debtor pursuant to section 14 of this
 8 chapter applied to the amount or amounts deferred for the period
 9 of deferral calculated without regard to difference in the lengths of
 10 months, but proportionally for a part of a month, counting each
 11 day as one-thirtieth (1/30) of a month. A deferral charge may be
 12 collected at the time it is assessed or at any time thereafter.

13 (b) The lender, in addition to the deferral charge, may make
 14 appropriate additional charges under section 5 of this chapter, and
 15 the amount of these charges which is not paid in cash may be added
 16 to the amount deferred for the purpose of calculating the deferral
 17 charge.

18 (c) The parties may agree in writing at the time of a
 19 precomputed consumer loan, refinancing, or consolidation that if
 20 an installment is not paid within ten (10) days after its due date, the
 21 lender may unilaterally grant a deferral and make charges as
 22 provided in this section. No deferral charge may be made for a
 23 period after the date that the lender elects to accelerate the
 24 maturity of the agreement.

25 (d) A delinquency charge made by the lender on an installment
 26 may not be retained if a deferral charge is made pursuant to this
 27 section with respect to the period of delinquency.

28 **Sec. 8.** With respect to a consumer loan, refinancing, or
 29 consolidation, the lender may by agreement with the debtor
 30 refinance the unpaid balance and may contract for and receive a
 31 loan finance charge based on the principal resulting from the
 32 refinancing at a rate not exceeding that permitted by the provisions
 33 on a loan finance charge for consumer loans (section 4 of this
 34 chapter) or the provisions on a loan finance charge for supervised
 35 loans (section 35 of this chapter), whichever is appropriate. For the
 36 purpose of determining the loan finance charge permitted, the
 37 principal resulting from the refinancing comprises the following:

38 (1) If:

39 (A) the transaction was not precomputed, the total of the
 40 unpaid balance and the accrued charges on the date of
 41 the refinancing; or

42 (B) the transaction was precomputed, in the case of a

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1 transaction entered into before July 1, 2020, the amount
 2 which the debtor would have been required to pay upon
 3 prepayment pursuant to the provisions on rebate upon
 4 prepayment under section 13 of this chapter on the date
 5 of refinancing.

6 (2) Appropriate additional charges under section 5 of this
 7 chapter, payment of which is deferred.

8 Sec. 9. (a) If a debtor owes an unpaid balance to a lender with
 9 respect to a consumer loan, refinancing, or consolidation, and
 10 becomes obligated on another consumer loan, refinancing, or
 11 consolidation with the same lender, the parties may agree to a
 12 consolidation resulting in a single schedule of payments. If the
 13 previous consumer loan, refinancing, or consolidation was not
 14 precomputed, the parties may agree to add the unpaid amount of
 15 principal and accrued charges on the date of consolidation to the
 16 principal with respect to the subsequent loan. If the previous
 17 consumer loan, refinancing, or consolidation was precomputed, in
 18 the case of a transaction entered into before July 1, 2020, the
 19 parties may agree to refinance the unpaid balance pursuant to the
 20 provisions on refinancing set forth in section 8 of this chapter and
 21 to consolidate the principal resulting from the refinancing by
 22 adding it to the principal with respect to the subsequent loan. In
 23 either case the lender may contract for and receive a loan finance
 24 charge based on the aggregate principal resulting from the
 25 consolidation at a rate not in excess of that permitted by the
 26 provisions on loan finance charge for consumer loans (section 4 of
 27 this chapter) or the provisions on loan finance charge for
 28 supervised loans (section 35 of this chapter), whichever is
 29 appropriate.

30 (b) The parties may agree to consolidate the unpaid balance of
 31 a consumer loan with the unpaid balance of a consumer credit sale.
 32 The parties may agree to refinance the previous unpaid balance
 33 pursuant to the provisions on refinancing sales set forth in
 34 IC 37-2-3-8 or the provisions on refinancing loans set forth in
 35 section 8 of this chapter, whichever is appropriate, and to
 36 consolidate the amount financed resulting from the refinancing or
 37 the principal resulting from the refinancing by adding it to the
 38 amount financed or principal with respect to the subsequent sale
 39 or loan. The aggregate amount resulting from the consolidation
 40 shall be deemed principal, and the creditor may contract for and
 41 receive a loan finance charge based on the principal at a rate not
 42 in excess of that permitted by the provisions on loan finance charge

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1 for consumer loans set forth in section 4 of this chapter or the
 2 provisions on loan finance charge for supervised loans set forth in
 3 section 35 of this chapter, whichever is appropriate.

4 **Sec. 10.** The parties may agree to add to a revolving loan
 5 account the unpaid balance of a consumer loan, not made pursuant
 6 to a revolving loan account, or a refinancing, or consolidation
 7 thereof, or the unpaid balance of a consumer credit sale,
 8 refinancing or consolidation. For the purpose of this section:

9 (1) the unpaid balance of a consumer loan, refinancing, or
 10 consolidation is an amount equal to the principal determined
 11 according to the provisions on refinancing set forth in section
 12 8 of this chapter; and

13 (2) the unpaid balance of a consumer credit sale, refinancing,
 14 or consolidation is an amount equal to the amount financed
 15 determined according to the provisions on refinancing set
 16 forth in IC 37-2-3-8.

17 **Sec. 11. (a)** If the agreement with respect to a consumer loan,
 18 refinancing, or consolidation contains covenants by the debtor to
 19 perform certain duties pertaining to insuring or preserving
 20 collateral and if the lender pursuant to the agreement pays for
 21 performance of the duties on behalf of the debtor, the lender may
 22 add the amounts paid to the debt. Within a reasonable time after
 23 advancing any sums, the lender shall state to the debtor in writing
 24 the amount of the sums advanced, any charges with respect to this
 25 amount, and any revised payment schedule and, if the duties of the
 26 debtor performed by the lender pertain to insurance, a brief
 27 description of the insurance paid for by the lender including the
 28 type and amount of coverages. No further information need be
 29 given.

30 (b) A loan finance charge may be made for sums advanced
 31 pursuant to subsection (a) at a rate not exceeding the rate stated to
 32 the debtor pursuant to section 14 of this chapter with respect to the
 33 loan, refinancing, or consolidation, except that with respect to a
 34 revolving loan account the amount of the advance may be added to
 35 the unpaid balance of the debt and the lender may make a loan
 36 finance charge not exceeding that permitted by the provisions on
 37 loan finance charge for consumer loans set forth in section 4 of this
 38 chapter or for supervised loans set forth in section 35 of this
 39 chapter, whichever is appropriate.

40 **Sec. 12. (a)** Subject to the provisions on rebate upon
 41 prepayment set forth in section 13 of this chapter, the debtor may
 42 prepay in full the unpaid balance of a consumer loan, refinancing,

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1 or consolidation at any time without penalty. With respect to a
 2 consumer loan that is primarily secured by an interest in land, a
 3 lender may contract for a penalty for prepayment of the loan in
 4 full, not to exceed two percent (2%) of any amount prepaid within
 5 sixty (60) days of the date of the prepayment in full, after deducting
 6 all refunds and rebates as of the date of the prepayment. However,
 7 the penalty may not be imposed:

8 (1) if the loan is refinanced or consolidated with the same
 9 creditor;

10 (2) for prepayment by proceeds of any insurance or
 11 acceleration after default; or

12 (3) after three (3) years from the contract date.

13 For purposes of this section, the collection of the amount of any
 14 conditionally waived closing costs (as allowed under section 5 of
 15 this chapter) by a creditor, as stipulated in the loan agreement, at
 16 the time of prepayment in full does not constitute a prepayment
 17 penalty and is not subject to the limitations set forth in this
 18 subsection.

19 (b) At the time of prepayment of a consumer loan not subject
 20 to the provisions of rebate upon prepayment set forth in section 13
 21 of this chapter, the total finance charge, including the prepaid
 22 finance charge but excluding the nonrefundable prepaid finance
 23 charge allowed under section 4(i) or section 35(h) of this chapter,
 24 as applicable, may not exceed the maximum charge allowed under
 25 this chapter for the period the loan was in effect. For the purposes
 26 of determining compliance with this subsection, the total finance
 27 charge does not include the following:

28 (1) The nonrefundable prepaid finance charge allowed under
 29 section 4(i) or section 35(h) of this chapter, as applicable.

30 (2) The debtor paid mortgage broker fee, if any, paid to a
 31 person who does not control, is not controlled by, or is not
 32 under common control with, the creditor holding the loan at
 33 the time a consumer loan is prepaid.

34 (c) The creditor or mortgage servicer shall provide, in writing,
 35 an accurate payoff amount for the consumer loan to the debtor
 36 within seven (7) business days (excluding legal public holidays,
 37 Saturdays, and Sundays) after the creditor or mortgage servicer
 38 receives the debtor's written request for the accurate consumer
 39 loan payoff amount. A payoff statement provided by a creditor or
 40 mortgage servicer under this subsection must show the date the
 41 statement was prepared and itemize the unpaid principal balance
 42 and each fee, charge, or other sum included within the payoff

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1 amount. A creditor or mortgage servicer who fails to provide the
2 accurate consumer loan payoff amount is liable for:

3 (1) one hundred dollars (\$100) if an accurate consumer loan
4 payoff amount is not provided by the creditor or mortgage
5 servicer within seven (7) business days (excluding legal
6 public holidays, Saturdays, and Sundays) after the creditor
7 or mortgage servicer receives the debtor's first written
8 request; and

9 (2) the greater of:

10 (A) one hundred dollars (\$100); or

11 (B) the loan finance charge that accrues on the loan
12 from the date the creditor or mortgage servicer receives
13 the first written request until the date on which the
14 accurate consumer loan payoff amount is provided;

15 if an accurate consumer loan payoff amount is not provided
16 by the creditor or mortgage servicer within seven (7)
17 business days (excluding legal public holidays, Saturdays,
18 and Sundays) after the creditor or mortgage servicer
19 receives the debtor's second written request, and the creditor
20 or mortgage servicer failed to comply with subdivision (1).

21 A liability under this subsection is an excess charge under
22 IC 37-2-6-9.

23 (d) As used in this subsection, "mortgage transaction" means
24 a consumer loan in which a mortgage or a land contract (or
25 another consensual security interest equivalent to a mortgage or a
26 land contract) that constitutes a lien is created or retained against
27 land upon which there is constructed or intended to be constructed
28 a dwelling that is or will be used by the debtor primarily for
29 personal, family, or household purposes. This subsection applies to
30 a mortgage transaction with respect to which any installment or
31 minimum payment due is delinquent for at least sixty (60) days.
32 The creditor, servicer, or the creditor's agent shall acknowledge a
33 written offer made in connection with a proposed short sale not
34 later than five (5) business days (excluding legal public holidays,
35 Saturdays, and Sundays) after the date of the offer if the offer
36 complies with the requirements for a qualified written request set
37 forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or
38 creditor's agent is required to acknowledge a written offer made
39 in connection with a proposed short sale from a third party acting
40 on behalf of the debtor only if the debtor has provided written
41 authorization for the creditor, servicer, or creditor's agent to do so.
42 Not later than thirty (30) business days (excluding legal public

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1 holidays, Saturdays, and Sundays) after receipt of an offer under
 2 this subsection, the creditor, servicer, or creditor's agent shall
 3 respond to the offer with an acceptance or a rejection of the offer.
 4 The thirty (30) day period described in this subsection may be
 5 extended for not more than fifteen (15) business days (excluding
 6 legal public holidays, Saturdays, and Sundays) if, before the end of
 7 the thirty (30) day period, the creditor, the servicer, or the
 8 creditor's agent notifies the debtor of the extension and the reason
 9 the extension is needed. Payment accepted by a creditor, servicer,
 10 or creditor's agent in connection with a short sale constitutes
 11 payment in full satisfaction of the mortgage transaction unless the
 12 creditor, servicer, or creditor's agent obtains either:

13 (1) a statement that: "The debtor remains liable for any
 14 amount still owed under the mortgage transaction."; or

15 (2) a statement substantially similar to the statement set
 16 forth in subdivision (1);

17 acknowledged by the initials or signature of the debtor, on or
 18 before the date on which the short sale payment is accepted. As
 19 used in this subsection, "short sale" means a transaction in which
 20 the property that is the subject of a mortgage transaction is sold
 21 for an amount that is less than the amount of the debtor's
 22 outstanding obligation under the mortgage transaction. A creditor
 23 or mortgage servicer that fails to respond to an offer within the
 24 time prescribed by this subsection is liable in accordance with 12
 25 U.S.C. 2605(f) in any action brought under that section.

26 (e) This section is not intended to provide the owner of real
 27 estate subject to the issuance of process under a judgment or
 28 decree of foreclosure any protection or defense against a deficiency
 29 judgment for purposes of the borrower protections from liability
 30 that must be disclosed under 12 CFR 1026.38(p)(3) on the form
 31 required by 12 CFR 1026.38 ("Closing Disclosures" form under
 32 the Amendments to the 2013 Integrated Mortgage Disclosures Rule
 33 Under the Real Estate Settlement Procedures Act (Regulation X)
 34 and the Truth In Lending Act (Regulation Z) and the 2013 Loan
 35 Originator Rule Under the Truth in Lending Act (Regulation Z)).

36 Sec. 13. (a) Except for subsections (b) and (i), this section
 37 applies only to a loan agreement entered into before July 1, 2020.
 38 Except as provided in subsection (b), upon prepayment in full of
 39 the unpaid balance of a precomputed consumer loan, refinancing,
 40 or consolidation, an amount not less than the unearned portion of
 41 the loan finance charge calculated according to this section shall be
 42 rebated to the debtor. If the rebate otherwise required is less than

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1 one dollar (\$1), no rebate need be made.

2 (b) Upon prepayment in full of a consumer loan, refinancing,
3 or consolidation, other than one under a revolving loan account, if
4 the loan finance charge earned is less than any permitted minimum
5 loan finance charge under section 4(g) or 35(g) of this chapter
6 contracted for, whether or not the consumer loan, refinancing, or
7 consolidation is precomputed, the lender may collect or retain the
8 minimum loan finance charge, as if earned, not exceeding the loan
9 finance charge contracted for.

10 (c) The unearned portion of the loan finance charge is a
11 fraction of the loan finance charge of which the numerator is the
12 sum of the periodic balances scheduled to follow the computational
13 period in which prepayment occurs, and the denominator is the
14 sum of all periodic balances under either the loan agreement or, if
15 the balance owing resulted from a refinancing under section 8 of
16 this chapter or a consolidation under section 9 of this chapter,
17 under the refinancing agreement or consolidation agreement.

18 (d) In this section:

19 (1) "periodic balance" means the amount scheduled to be
20 outstanding on the last day of a computational period before
21 deducting the payment, if any, scheduled to be made on that
22 day;

23 (2) "computation period" means one (1) month if one-half
24 (1/2) or more of the intervals between scheduled payments
25 under the agreement is one (1) month or more, and otherwise
26 means one (1) week;

27 (3) the "interval" to the due date of the first scheduled
28 installment or the final scheduled payment date is measured
29 from the date of a loan, refinancing, or consolidation, and
30 includes either the first or last day of the interval; and

31 (4) if the interval to the due date of the first scheduled
32 installment does not exceed one (1) month by more than
33 fifteen (15) days when the computational period is one (1)
34 month, or eleven (11) days when the computational period is
35 one (1) week, the interval shall be considered as one (1)
36 computational period.

37 (e) This subsection applies only if the schedule of payments is
38 not regular.

39 (1) If the computational period is one (1) month and:

40 (A) if the number of days in the interval to the due date
41 of the first scheduled installment is less than one (1)
42 month by more than five (5) days, or more than one (1)

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1 month by more than five (5) but not more than fifteen
 2 (15) days, the unearned loan finance charge shall be
 3 increased by an adjustment for each day by which the
 4 interval is less than one (1) month and, at the option of
 5 the lender, may be reduced by an adjustment for each
 6 day by which the interval is more than one (1) month;
 7 the adjustment for each day shall be one-thirtieth (1/30)
 8 of that part of the loan finance charge earned in the
 9 computational period prior to the due date of the first
 10 scheduled installment assuming that period to be one (1)
 11 month; and

12 (B) if the interval to the final scheduled payment date is
 13 a number of computational periods plus an additional
 14 number of days less than a full month, the additional
 15 number of days shall be considered a computational
 16 period only if sixteen (16) days or more. This clause
 17 applies whether or not clause (A) applies.

18 (2) Notwithstanding subdivision (1), if the computational
 19 period is one (1) month, the number of days in the interval to
 20 the due date of the first installment exceeds one (1) month by
 21 not more than fifteen (15) days, and the schedule of
 22 payments is otherwise regular, the lender, at the lender's
 23 option, may exclude the extra days and the charge for the
 24 extra days in computing the unearned loan finance charge;
 25 but if the lender does so and a rebate is required before the
 26 due date of the first scheduled installment, the lender shall
 27 compute the earned charge for each elapsed day as
 28 one-thirtieth (1/30) of the amount the earned charge would
 29 have been if the first interval had been one (1) month.

30 (3) If the computational period is one (1) week and:
 31 (A) if the number of days in the interval to the due date
 32 of the first scheduled installment is less than five (5)
 33 days, or more than nine (9) days, but not more than
 34 eleven (11) days, the unearned loan finance charge shall
 35 be increased by an adjustment for each day by which the
 36 interval is less than seven (7) days and, at the option of
 37 the lender, may be reduced by an adjustment for each
 38 day by which the interval is more than seven (7) days;
 39 the adjustment for each day shall be one-seventh (1/7) of
 40 that part of the loan finance charge earned in the
 41 computational period prior to the due date of the first
 42 scheduled installment, assuming that period to be one



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1 (1) week; and

2 (B) if the interval to the final scheduled payment date is
3 a number of computational periods plus an additional
4 number of days less than a full week, the additional
5 number of days shall be considered a computational
6 period only if five (5) days or more. This clause applies
7 whether or not clause (A) applies.

8 (f) If a deferral has been agreed to under section 7 of this
9 chapter, the unearned portion of the loan finance charge shall be
10 computed without regard to the deferral. The amount of deferral
11 charge earned at the date of prepayment shall also be calculated.
12 If the deferral charge earned is less than the deferral charge paid,
13 the difference shall be added to the unearned portion of the loan
14 finance charge. If any part of a deferral charge has been earned
15 but has not been paid, that part shall be subtracted from the
16 unearned portion of the loan finance charge or shall be added to
17 the unpaid balance.

18 (g) This section does not preclude the collection or retention by
19 the lender of delinquency charges under section 6 of this chapter.

20 (h) If the maturity is accelerated for any reason and judgment
21 is obtained, the debtor is entitled to the same rebate as if payment
22 had been made on the date judgment is entered.

23 (i) Upon prepayment in full of a consumer loan by the
24 proceeds of consumer credit insurance, the debtor or the debtor's
25 estate shall pay the same loan finance charge or receive the same
26 rebate as though the debtor had prepaid the agreement on the date
27 the proceeds of the insurance are paid to the lender, but no later
28 than ten (10) business days after satisfactory proof of loss is
29 furnished to the lender. This subsection applies whether or not the
30 loan is precomputed.

31 (j) Upon prepayment in full of a transaction with a term of
32 more than sixty-one (61) months, the unearned loan finance charge
33 shall be computed by applying the disclosed annual percentage rate
34 that would yield the loan finance charge originally contracted for
35 to the unpaid balances of the amount financed for the full
36 computational periods following the prepayment, as originally
37 scheduled or as deferred.

38 Sec. 14. (a) For the purposes of this section, "consumer loan"
39 includes a loan that is a first lien mortgage transaction if the loan
40 is otherwise a consumer loan.

41 (b) The lender shall disclose to the debtor to whom credit is
42 extended with respect to a consumer loan the information required

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1 by the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

2 (c) For purposes of subsection (b), disclosures shall not be
3 required on a consumer loan if the transaction is exempt from the
4 Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

5 Sec. 15. (a) This section does not apply to a first lien mortgage
6 transaction.

7 (b) Except as provided in IC 37-5-4-3 with respect to a high
8 cost home loan (as defined in IC 37-5-2-8), with respect to a
9 consumer loan, other than one pursuant to a revolving loan
10 account or one on which only loan finance charges are payable
11 prior to the time that the final scheduled payment is due, if any
12 scheduled payment is more than twice as large as the average of
13 earlier scheduled payments, the debtor has the right to refinance
14 the amount of that payment at the time it is due without penalty.
15 The terms of the refinancing shall be no less favorable to the
16 debtor than the terms of the original loan. This section does not
17 apply to the extent that the payment schedule is adjusted to the
18 seasonal or irregular income of the debtor.

19 (c) For the purposes of this section, "terms of the refinancing"
20 means:

21 (1) in the case of a fixed-rate consumer loan, the individual
22 payment amounts, the charges as a result of default by the
23 debtor, and the rate of the loan finance charge; and

24 (2) in the case of a variable rate consumer loan, the method
25 used to determine the individual payment amounts, the
26 charges as a result of default by the debtor, the method used
27 to determine the rate of the loan finance charge, the
28 circumstances under which the rate of the loan finance
29 charge may increase, and any limitations on the increase in
30 the rate of the loan finance charge.

31 (d) If a consumer loan is made under the authority of the
32 Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et
33 seq.), the note evidencing the mortgage must contain a reference to
34 the applicable federal law.

35 Sec. 16. (a) A lender may not take an assignment of earnings
36 of the debtor for payment or as security for payment of a debt
37 arising out of a consumer loan or otherwise. An assignment of
38 earnings in violation of this section is unenforceable by the assignee
39 of the earnings and revocable by the debtor. This section does not
40 prohibit an employee from authorizing deductions from his
41 earnings if the authorization is revocable and is otherwise
42 permitted by law.

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1 (b) A sale of unpaid earnings made in consideration of the
 2 payment of money to or for the account of the seller of the earnings
 3 is deemed to be a loan to the seller secured by an assignment of
 4 earnings.

5 Sec. 17. With respect to a consumer loan the agreement may
 6 provide for the payment by the debtor of reasonable attorney's fees
 7 after default and referral to an attorney not a salaried employee of
 8 the lender. A provision in violation of this section is unenforceable.

9 Sec. 18. Except for reasonable expenses incurred in realizing
 10 on a security interest, the agreement with respect to a consumer
 11 loan may not provide for charges as a result of default by the
 12 debtor other than those authorized by this article. A provision in
 13 violation of this section is unenforceable.

14 Sec. 19. The debtor is authorized to pay the original lender
 15 until the debtor receives notification of assignment of rights to
 16 payment pursuant to a consumer loan and that payment is to be
 17 made to the assignee. A notification which does not reasonably
 18 identify the rights assigned is ineffective. If requested by the
 19 debtor, the assignee must seasonably furnish reasonable proof that
 20 the assignment has been made and unless the assignee does so the
 21 debtor may pay the original lender.

22 Sec. 20. A debtor may not authorize any person to confess
 23 judgment on a claim arising out of a consumer loan. An
 24 authorization in violation of this section is void.

25 Sec. 21. (a) This section applies to consumer loans, including
 26 revolving loan accounts.

27 (b) Except as provided in subsection (c), a creditor shall credit
 28 a payment to a consumer's account as of the date of receipt, except
 29 when a delay in crediting does not result in a finance charge or
 30 other charge, including a delinquency charge under section 6 of
 31 this chapter. A delay in posting does not violate this section so long
 32 as the payment is credited as of the date of receipt.

33 (c) If a creditor specifies in writing requirements for the
 34 consumer to follow in making payments, but accepts a payment
 35 that does not conform to the requirements, the creditor shall credit
 36 the payment within five (5) days of receipt of the payment.

37 (d) If a creditor fails to credit a payment as required by this
 38 section in time to avoid the imposition of a finance or other charge,
 39 including a delinquency charge, the creditor shall adjust the
 40 consumer's account so that the charges imposed are credited to the
 41 consumer's account during the next payment period.

42 Sec. 22. (a) If a person licensed or required to be licensed

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1 under section 24 of this chapter also engages in activities of a loan
 2 broker described in IC 23-2.5, the activities of a loan broker are
 3 subject to the following sections of the Indiana Code and any rules
 4 adopted to implement these sections:

5 (1) IC 23-2.5-8-1, except for IC 23-2.5-8-1(b)(2).

6 (2) IC 23-2.5-8-2.

7 (3) IC 23-2.5-11-15(b) and IC 23-2.5-11-15(c).

8 (4) IC 23-2.5-11-17.

9 (5) IC 23-2.5-8-3.

10 (6) IC 23-2.5-8-4 through IC 23-2.5-8-9.

11 (7) IC 23-2.5-8-10.

12 (8) IC 23-2.5-10-1.

13 (9) IC 23-2.5-9-1.

14 (10) IC 23-2.5-11-16.

15 (b) Loan broker business transactions engaged in by persons
 16 licensed or required to be licensed under section 24 of this chapter
 17 are subject to examination by the department and to the
 18 examination fees described in section 26(h)(2) of this chapter. The
 19 department may cooperate with the securities division of the office
 20 of the secretary of state in the department's examination of loan
 21 broker business transactions and may use the securities division's
 22 examiners to conduct examinations.

23 Sec. 23. (a) A person that is a:

24 (1) depository institution;

25 (2) subsidiary that is owned and controlled by a depository
 26 institution and regulated by a federal banking agency; or

27 (3) credit union service organization;

28 may engage in Indiana in the making of consumer loans (including
 29 small loans that are subject to IC 37-3) that are not mortgage
 30 transactions without obtaining a license under this article.

31 (b) A collection agency licensed under IC 25-11-1 may engage
 32 in:

33 (1) taking assignments of consumer loans (including small
 34 loans that are subject to IC 37-3) that are not mortgage
 35 transactions; and

36 (2) undertaking the direct collection of payments from or the
 37 enforcement of rights against debtors arising from consumer
 38 loans (including small loans that are subject to IC 37-3) that
 39 are not mortgage transactions;

40 in Indiana without obtaining a license under this article.

41 (c) A person that does not qualify under subsection (a) or (b)
 42 shall acquire and retain a license under this chapter in order to



1 regularly engage in Indiana in the following actions with respect to
 2 consumer loans that are not small loans (as defined in IC 37-3-2)
 3 or mortgage transactions:

4 (1) The making of consumer loans.

5 (2) Taking assignments of consumer loans.

6 (3) Undertaking the direct collection of payments from or the
 7 enforcement of rights against debtors arising from consumer
 8 loans.

9 (d) A separate license under this chapter is required for each
 10 legal entity that engages in Indiana in any activity described in
 11 subsection (c). However, a separate license under this chapter is
 12 not required for each branch of a legal entity licensed under this
 13 chapter to perform an activity described in subsection (c).

14 (e) Except as otherwise provided in subsections (a) and (b), a
 15 separate license under IC 37-3 is required in order to regularly
 16 engage in Indiana in the following actions with respect to small
 17 loans (as defined in IC 37-3-2):

18 (1) The making of small loans (as defined in IC 37-3-2).

19 (2) Taking assignments of small loans (as defined in
 20 IC 37-3-2).

21 (3) Undertaking the direct collection of payments from or the
 22 enforcement of rights against debtors arising from small
 23 loans (as defined in IC 37-3-2).

24 A person that seeks licensure under IC 37-3 in order to regularly
 25 engage in Indiana in the actions set forth in this subsection shall
 26 apply to the department for that license in the form and manner
 27 prescribed by the department, and is subject to the same licensure
 28 requirements and procedures as an applicant for a license to make
 29 consumer loans (other than small loans or mortgage transactions)
 30 under this section.

31 Sec. 24. (a) A person that is a:

32 (1) depository institution;

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

35 (3) credit union service organization;

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

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

42 (1) taking assignments of subordinate lien mortgage

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- 1 transactions; and
- 2 (2) undertaking the direct collection of payments from or the
- 3 enforcement of rights against debtors arising from
- 4 subordinate lien mortgage transactions;
- 5 in Indiana without obtaining a mortgage license issued by the
- 6 department.
- 7 (c) A person that is not otherwise exempt under subsection (a)
- 8 or (b) shall acquire and retain a mortgage license issued by the
- 9 department in order to regularly engage in Indiana in the following
- 10 actions with respect to subordinate lien mortgage transactions:
- 11 (1) The making of subordinate lien mortgage loans.
- 12 (2) Taking assignments of subordinate lien mortgage loans.
- 13 (3) Undertaking the direct collection of payments from or the
- 14 enforcement of rights against debtors arising from
- 15 subordinate lien mortgage loans.
- 16 (d) Each:
- 17 (1) creditor licensed by the department to engage in
- 18 subordinate lien mortgage transactions; and
- 19 (2) person that is exempt (either under this article or under
- 20 IC 37-1-1-6(8)) from licensing and that:
- 21 (A) employs a licensed mortgage loan originator; or
- 22 (B) sponsors a licensed mortgage loan originator as
- 23 permitted by IC 37-1-1-6(8) or by 750 IAC 9;
- 24 shall register with and maintain a valid unique identifier issued by
- 25 the NMLSR. Each licensed mortgage loan originator must be
- 26 employed by, or sponsored as permitted by IC 37-1-1-6(8) or by
- 27 750 IAC 9, and associated with, a licensed creditor (or an exempt
- 28 person described under subdivision (2)) that is registered with the
- 29 NMLSR.
- 30 (e) Applicants for a mortgage license must apply to the
- 31 department for the license in a form prescribed by the director.
- 32 Each form:
- 33 (1) must contain content as set forth by rule, instruction, or
- 34 procedure of the director; and
- 35 (2) may be changed or updated as necessary by the director
- 36 to carry out the purposes of this article.
- 37 (f) To fulfill the purposes of this article, the director may
- 38 establish relationships or contracts with the NMLSR or other
- 39 entities designated by the NMLSR to:
- 40 (1) collect and maintain records; and
- 41 (2) process transaction fees or other fees;
- 42 related to licensees or other persons subject to this article.

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1 (g) For the purpose of participating in the NMLSR, the
2 director or the department may:

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

7 Sec. 25. (a) Subject to subsection (f), the director may
8 designate the NMLSR to serve as the sole entity responsible for:

- 9 (1) processing applications and renewals for licenses
10 required under section 23 of this chapter;
11 (2) issuing unique identifiers for licensees and entities exempt
12 from licensing under section 23 of this chapter; and
13 (3) performing other services that the director determines
14 are necessary for the orderly administration of the
15 department's licensing system under section 23 of this
16 chapter.

17 (b) Subject to the confidentiality provisions contained in
18 IC 5-14-3, this section, and IC 28-1-2-30, the director may
19 regularly report to the NMLSR significant or recurring violations
20 of this article related to consumer loans that are not mortgage
21 transactions, including small loans under IC 37-3.

22 (c) Subject to the confidentiality provisions contained in
23 IC 5-14-3, this section, and IC 28-1-2-30, the director may report
24 to the NMLSR complaints received regarding licensees under
25 section 23 of this chapter in connection with consumer loans that
26 are not mortgage transactions, including small loans under
27 IC 37-3.

28 (d) The director may report to the NMLSR publicly
29 adjudicated licensure actions against licensees under section 23 of
30 this chapter.

31 (e) The director shall establish a process in which persons
32 licensed in accordance with section 23 of this chapter may
33 challenge information reported to the NMLSR by the department.

34 (f) The director's authority to designate the NMLSR under
35 subsection (a) is subject to the following:

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

39 (A) obtain information from the NMLSR unless the
40 person is authorized to do so by statute;

41 (B) initiate any civil action based on information
42 obtained from the NMLSR if the information is not

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

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1 after the information or material has been disclosed to the
 2 NMLSR. The information and material may be shared with
 3 all state and federal regulatory officials with financial
 4 services industry oversight authority without the loss of
 5 privilege or the loss of confidentiality protections provided
 6 by federal law or IC 5-14-3.

7 (7) For purposes of this section, the director may enter
 8 agreements or sharing arrangements with other
 9 governmental agencies, the Conference of State Bank
 10 Supervisors, or other associations representing
 11 governmental agencies as established by rule or order of the
 12 director.

13 (8) Information or material that is subject to a privilege or
 14 confidentiality under subdivision (6) is not subject to:

15 (A) disclosure under any federal or state law governing
 16 the disclosure to the public of information held by an
 17 officer or an agency of the federal government or the
 18 respective state; or

19 (B) subpoena, discovery, or admission into evidence, in
 20 any private civil action or administrative process, unless
 21 with respect to any privileged information or material
 22 held by the NMLSR, the person to whom the
 23 information or material pertains waives, in whole or in
 24 part, in the discretion of the person, that privilege.

25 (9) Any provision of IC 5-14-3 that concerns the disclosure
 26 of:

27 (A) confidential supervisory information; or

28 (B) any information or material described in subdivision
 29 (6);

30 and that is inconsistent with subdivision (6) is superseded by
 31 this section.

32 (10) This section does not apply with respect to information
 33 or material that concerns the employment history of, and
 34 publicly adjudicated disciplinary and enforcement actions
 35 against, a person licensed in accordance with section 23 of
 36 this chapter and described in section 26(b) of this chapter
 37 and that is included in the NMLSR for access by the public.

38 (11) The director may require a licensee required to submit
 39 information to the NMLSR to pay a processing fee
 40 considered reasonable by the director. In determining
 41 whether an NMLSR processing fee is reasonable, the
 42 director shall:

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- 1 (A) require review of; and
 2 (B) make available;
 3 the audited financial statements of the NMLSR.
 4 (g) Notwithstanding any other provision of law, any:
 5 (1) application, renewal, or other form or document that:
 6 (A) relates to licenses issued under section 23 of this
 7 chapter; and
 8 (B) is made or produced in an electronic format;
 9 (2) document filed as an electronic record in a multistate
 10 automated repository established and operated for the
 11 licensing or registration of financial services entities and
 12 their employees; or
 13 (3) electronic record filed through the NMLSR;
 14 is considered a valid original document when reproduced in paper
 15 form by the department.

16 Sec. 26. (a) The department shall receive and act on all
 17 applications for licenses to make consumer loans. Applications
 18 must be as prescribed by the director of the department of
 19 financial institutions. If, at any time, the information or record
 20 contained in:

- 21 (1) an application filed under section 23 of this chapter or
 22 section 24 of this chapter; or
 23 (2) a renewal application filed under section 31 of this
 24 chapter;

25 is or becomes inaccurate or incomplete in a material respect, the
 26 applicant shall promptly file a correcting amendment with the
 27 department.

28 (b) A license shall not be issued unless the department finds
 29 that the professional training and experience, financial
 30 responsibility, character, and fitness of:

- 31 (1) the applicant and any significant affiliate of the applicant;
 32 (2) each executive officer, director, or manager of the
 33 applicant, or any other individual having a similar status or
 34 performing a similar function for the applicant; and
 35 (3) if known, each person directly or indirectly owning of
 36 record or owning beneficially at least ten percent (10%) of
 37 the outstanding shares of any class of equity security of the
 38 applicant;

39 are such as to warrant belief that the business will be operated
 40 honestly and fairly within the purposes of this article.

41 (c) The director is entitled to request evidence of compliance
 42 with this section at:

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- 1 (1) the time of application;
 2 (2) the time of renewal of a license; or
 3 (3) any other time considered necessary by the director.
- 4 (d) Evidence of compliance with this section concerning a
 5 person licensed under section 23 of this chapter may include and
 6 for a person licensed under section 24 of this chapter must include:
 7 (1) criminal background checks as described in section 27 of
 8 this chapter, including a national criminal history
 9 background check (as defined in IC 10-13-3-12) by the
 10 Federal Bureau of Investigation, for any individual described
 11 in subsection (b);
 12 (2) credit histories as described in section 28 of this chapter;
 13 (3) surety bond requirements as described in section 29 of
 14 this chapter;
 15 (4) a review of licensure actions in Indiana and other states;
 16 and
 17 (5) other background checks considered necessary by the
 18 director.
- 19 (e) For purposes of this section and in order to reduce the
 20 points of contact that the director may have to maintain under this
 21 section, the director may use the NMLSR as a channeling agent for
 22 requesting and distributing information to and from any source as
 23 directed by the director.
- 24 (f) The department may deny an application under this section
 25 if the director of the department determines that the application
 26 was submitted for the benefit of, or on behalf of, a person who does
 27 not qualify for a license.
- 28 (g) Upon written request, the applicant is entitled to a hearing
 29 on the question of the qualifications of the applicant for a license
 30 as provided in IC 4-21.5.
- 31 (h) The applicant shall pay the following fees at the time
 32 designated by the department:
 33 (1) An initial license fee as established by the department
 34 under IC 28-11-3-5.
 35 (2) Examination fees as established by the department under
 36 IC 28-11-3-5.
 37 (3) An annual renewal fee as established by the department
 38 under IC 28-11-3-5.
- 39 (i) A fee as established by the department under IC 28-11-3-5
 40 may be charged for each day a fee under subsection (h)(2) or (h)(3)
 41 is delinquent.
- 42 (j) The licensee may deduct the fees required under subsection

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1 (h)(1) and (h)(3) from the filing fees paid under IC 37-2-7-26.

2 (k) Except in a transaction approved under section 41 of this
3 chapter, a license issued under this section is not assignable or
4 transferable.

5 (l) If the department of state revenue notifies the department
6 that a person is on the most recent tax warrant list, the department
7 shall not issue or renew the person's license until:

8 (1) the person provides to the department a statement from
9 the department of state revenue that the person's tax
10 warrant has been satisfied; or

11 (2) the department receives a notice from the commissioner
12 of the department of state revenue under IC 6-8.1-8-2(k).

13 Sec. 27. (a) When the director requests a national criminal
14 history background check under section 26(d)(1) of this chapter for
15 an individual described in section 26(b) of this chapter, the director
16 shall require the individual to submit fingerprints to the
17 department, state police department, or NMLSR, as directed, at
18 the time evidence of compliance is requested under section 26(d) of
19 this chapter. The individual to whom the request is made shall pay
20 any fees or costs associated with processing and evaluating the
21 fingerprints and the national criminal history background check.
22 The national criminal history background check may be used by
23 the director to determine the individual's compliance with this
24 section. The director or the department may not release the results
25 of the national criminal history background check to any private
26 entity.

27 (b) For purposes of this section and in order to reduce the
28 points of contact that the Federal Bureau of Investigation may
29 have to maintain for purposes of this section, the director may use
30 the NMLSR as a channeling agent for requesting information from
31 and distributing information to the United States Department of
32 Justice or any governmental agency.

33 Sec. 28. (a) If the director requests a credit report for an
34 individual described in section 26(b) of this chapter, the individual
35 to whom the request is made shall pay any fees or costs associated
36 with procuring the report.

37 (b) The individual must submit personal history and
38 experience information in a form prescribed by the NMLSR,
39 including the submission of authorization for the NMLSR or the
40 director to obtain an independent credit report obtained from a
41 consumer reporting agency described in Section 603(p) of the Fair
42 Credit Reporting Act (15 U.S.C. 1681a(p)).

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1 (c) The director may consider one (1) or more of the following
 2 when determining if an individual has demonstrated financial
 3 responsibility:

- 4 (1) Bankruptcies filed within the last ten (10) years.
 5 (2) Current outstanding judgments, except judgments solely
 6 as a result of medical expenses.
 7 (3) Current outstanding tax liens or other government liens
 8 or filings.
 9 (4) Foreclosures within the past three (3) years.
 10 (5) A pattern of serious delinquent accounts within the past
 11 three (3) years.

12 Sec. 29. (a) Each:

- 13 (1) creditor licensed by the department to engage in
 14 mortgage transactions; and
 15 (2) person that is exempt (either under this article or under
 16 IC 37-1-1-6(8)) from licensing and that:
 17 (A) employs a licensed mortgage loan originator; or
 18 (B) sponsors a licensed mortgage loan originator as
 19 permitted by IC 37-1-1-6(8) or by 750 IAC 9;

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

21 (b) A surety bond must:

- 22 (1) provide coverage for:
 23 (A) a creditor described in subsection (a)(1); and
 24 (B) an exempt person described in subsection (a)(2);
 25 in an amount as prescribed in subsection (d);
 26 (2) be in a form as prescribed by the director;
 27 (3) be in effect:
 28 (A) during the term of the creditor's license; or
 29 (B) at any time during which the person exempt from
 30 licensing employs a licensed mortgage loan originator,
 31 or sponsors a licensed mortgage loan originator as
 32 permitted by IC 37-1-1-6(8) or by 750 IAC 9;

33 as applicable;

- 34 (4) subject to subsection (c), remain in effect during the two
 35 (2) years after:

- 36 (A) the license of the creditor is surrendered or
 37 terminated; or
 38 (B) the person exempt from licensing ceases to employ
 39 a licensed mortgage loan originator, or ceases to sponsor
 40 a licensed mortgage loan originator as permitted by
 41 IC 37-1-1-6(8) or by 750 IAC 9, or to offer financial
 42 services to individuals in Indiana, whichever is later;

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- 1 as applicable;
- 2 (5) be payable to the department for the benefit of:
- 3 (A) the state; and
- 4 (B) individuals who reside in Indiana when they agree to
- 5 receive financial services from the creditor or the person
- 6 exempt from licensing, as applicable;
- 7 (6) be issued by a bonding, surety, or insurance company
- 8 authorized to do business in Indiana and rated at least "A-"
- 9 by at least one (1) nationally recognized investment rating
- 10 service; and
- 11 (7) have payment conditioned upon:
- 12 (A) the creditor's or any of the creditor's licensed
- 13 mortgage loan originators'; or
- 14 (B) the exempt person's or any of the exempt person's
- 15 licensed mortgage loan originators';
- 16 noncompliance with or violation of this chapter, 750 IAC 9,
- 17 or other federal or state laws or regulations applicable to
- 18 mortgage lending.
- 19 (c) The director may adopt rules or guidance documents with
- 20 respect to the requirements for surety bonds as necessary to
- 21 accomplish the purposes of this article. Upon written request from:
- 22 (1) a creditor described in subsection (a)(1); or
- 23 (2) an exempt person described in subsection (a)(2);
- 24 the director may, at the discretion of the director, waive or shorten
- 25 the two (2) year period set forth in subsection (b)(4) during which
- 26 a surety bond required by this section must remain in effect after
- 27 the occurrence of an event described in subsection (b)(4)(A) or
- 28 (b)(4)(B), as applicable.
- 29 (d) The penal sum of the surety bond shall be maintained in an
- 30 amount that reflects the dollar amount of mortgage transactions
- 31 originated as determined by the director. If the principal amount
- 32 of a surety bond required under this section is reduced by payment
- 33 of a claim or judgment, the creditor or exempt person for whom
- 34 the bond is issued shall immediately notify the director of the
- 35 reduction and, not later than thirty (30) days after notice by the
- 36 director, file a new or an additional surety bond in an amount set
- 37 by the director. The amount of the new or additional bond set by
- 38 the director must be at least the amount of the bond before
- 39 payment of the claim or judgment.
- 40 (e) If for any reason a surety terminates a bond issued under
- 41 this section, the creditor or the exempt person shall immediately
- 42 notify the department and file a new surety bond in an amount

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1 determined by the director.

2 (f) Cancellation of a surety bond issued under this section does
3 not affect any liability incurred or accrued during the period when
4 the surety bond was in effect.

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

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

11 Sec. 30. (a) Subject to subsection (g), the director shall
12 designate the NMLSR to serve as the sole entity responsible for:

13 (1) processing applications and renewals for licenses under
14 section 24 of this chapter;

15 (2) issuing unique identifiers for licensees under section 24 of
16 this chapter and for persons exempt from licensing (either
17 under this article or under IC 37-1-1-6(8)) that employ
18 licensed mortgage loan originators or that sponsor licensed
19 mortgage loan originators as permitted by IC 37-1-1-6(8) or
20 by 750 IAC 9; and

21 (3) performing other services that the director determines
22 necessary for the orderly administration of the department's
23 licensing system under section 24 of this chapter.

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

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

32 (d) The director may report publicly adjudicated licensure
33 actions against licensees under section 24 of this chapter to the
34 NMLSR.

35 (e) The director shall establish a process in which persons
36 licensed in accordance with section 24 of this chapter may
37 challenge information reported to the NMLSR by the department.

38 (f) The director's authority to designate the NMLSR under
39 subsection (a) is subject to the following:

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

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- 1 (A) obtain information from the NMLSR unless the
 2 person is authorized to do so by statute;
 3 (B) initiate any civil action based on information
 4 obtained from the NMLSR if the information is not
 5 otherwise available to the person under any other state
 6 law; or
 7 (C) initiate any civil action based on information
 8 obtained from the NMLSR if the person could not have
 9 initiated the action based on information otherwise
 10 available to the person under any other state law.
- 11 (2) Documents, materials, and other forms of information in
 12 the control or possession of the NMLSR that are confidential
 13 under IC 28-1-2-30 and that are:
 14 (A) furnished by the director, the director's designee, or
 15 a licensee; or
 16 (B) otherwise obtained by the NMLSR;
 17 are confidential and privileged by law and are not subject to
 18 inspection under IC 5-14-3, subject to subpoena, subject to
 19 discovery, or admissible in evidence in any civil action.
 20 However, the director may use the documents, materials, or
 21 other information available to the director in furtherance of
 22 any action brought in connection with the director's duties
 23 under this article.
- 24 (3) Disclosure of documents, materials, and information:
 25 (A) to the director; or
 26 (B) by the director;
 27 under this subsection does not result in a waiver of any
 28 applicable privilege or claim of confidentiality with respect
 29 to the documents, materials, or information.
- 30 (4) Information provided to the NMLSR is subject to
 31 IC 4-1-11.
- 32 (5) This subsection does not limit or impair a person's right
 33 to:
 34 (A) obtain information;
 35 (B) use information as evidence in a civil action or
 36 proceeding; or
 37 (C) use information to initiate a civil action or
 38 proceeding;
 39 if the information may be obtained from the director or the
 40 director's designee under any law.
- 41 (6) Except as otherwise provided in the federal Housing and
 42 Economic Recovery Act of 2008, Public Law 110-289, Section

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

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

20 (8) Information or material that is subject to a privilege or
 21 confidentiality under subdivision (6) is not subject to:

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

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

33 (9) Any provision of IC 5-14-3 that concerns the disclosure
 34 of:

35 (A) confidential supervisory information; or

36 (B) any information or material described in subdivision
 37 (6);

38 and that is inconsistent with subdivision (6) is superseded by
 39 this section.

40 (10) This section does not apply with respect to information
 41 or material that concerns the employment history of, and
 42 publicly adjudicated disciplinary and enforcement actions



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1 against, a person licensed in accordance with section 24 of
 2 this chapter and described in section 26(b) of this chapter
 3 and that is included in the NMLSR for access by the public.

4 (11) The director may require a licensee required to submit
 5 information to the NMLSR to pay a processing fee
 6 considered reasonable by the director. In determining
 7 whether an NMLSR processing fee is reasonable, the
 8 director shall:

9 (A) require review of; and

10 (B) make available;

11 the audited financial statements of the NMLSR.

12 (g) Notwithstanding any other provision of law, any:

13 (1) application, renewal, or other form or document that:

14 (A) relates to mortgage licenses issued by the
 15 department; and

16 (B) is made or produced in an electronic format;

17 (2) document filed as an electronic record in a multistate
 18 automated repository established and operated for the
 19 licensing or registration of mortgage lenders, brokers, or
 20 loan originators; or

21 (3) electronic record filed through the NMLSR;

22 is considered a valid original document when reproduced in paper
 23 form by the department.

24 Sec. 31. (a) A license issued under this article must be renewed
 25 not later than December 31 of each calendar year. A license issued
 26 under section 24 of this chapter must be renewed through the
 27 NMLSR. The minimum standards for license renewal for a
 28 creditor include the following:

29 (1) If the creditor is licensed in accordance with section 23 of
 30 this chapter, the creditor has:

31 (A) paid all required fees for renewal of the license; and

32 (B) filed all reports and information required by the
 33 director.

34 (2) If the creditor is licensed under section 24 of this chapter,
 35 the following:

36 (A) The creditor has continued to meet the surety bond
 37 requirement under section 29 of this chapter.

38 (B) The creditor has filed the creditor's call report in a
 39 manner that satisfies section 33(d) of this chapter.

40 (C) The creditor has paid all required fees for renewal
 41 of the license.

42 (D) The creditor and individuals described in section

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1 **26(b) of this chapter have certified to the department**
 2 **that they continue to meet all the standards for licensing**
 3 **established under section 26 of this chapter.**

4 **(E) The creditor has filed all reports and information**
 5 **required by the director.**

6 **(F) The creditor has provided in the creditor's renewal**
 7 **application any information describing material changes**
 8 **in the information contained in the creditor's original**
 9 **application for licensure, or in any previous application,**
 10 **including any previous renewal application, along with**
 11 **any other information the director requires in order to**
 12 **evaluate the renewal of the license issued under this**
 13 **article.**

14 **(b) A license issued by the department authorizing a person to**
 15 **engage as a creditor in consumer loans or consumer credit sales**
 16 **under this article may be revoked or suspended by the department**
 17 **if the person fails to:**

- 18 **(1) file any renewal form required by the department; or**
 19 **(2) pay any license renewal fee described under section**
 20 **26(h)(3) of this chapter;**

21 **not later than sixty (60) days after the due date.**

22 **(c) A person whose license is revoked or suspended under this**
 23 **section may do either of the following:**

- 24 **(1) Pay all delinquent fees and apply for reinstatement of the**
 25 **license.**
 26 **(2) Appeal the revocation or suspension to the department**
 27 **for an administrative review under IC 4-21.5-3.**

28 **Pending the decision from a hearing under IC 4-21.5-3 concerning**
 29 **license revocation or suspension, a license remains in force.**

30 **(d) If, at any time, the information or record contained in:**

- 31 **(1) an original application for licensure filed under section 23**
 32 **or 24 of this chapter; or**
 33 **(2) a renewal application filed under this section;**

34 **is or becomes inaccurate or incomplete in a material respect, the**
 35 **applicant shall promptly file a correcting amendment with the**
 36 **department.**

37 **Sec. 32. (a) The department may issue to a person licensed to:**

- 38 **(1) make consumer loans; or**
 39 **(2) engage in consumer credit sales that are mortgage**
 40 **transactions;**

41 **an order to show cause why the license should not be revoked or**
 42 **suspended for a period determined by the department.**

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- 1 **(b) An order issued under subsection (a) must:**
 2 **(1) include:**
 3 **(A) a statement of the place, date, and time for a meeting**
 4 **with the department, which date may not be less than**
 5 **ten (10) days from the date of the order;**
 6 **(B) a description of the action contemplated by the**
 7 **department; and**
 8 **(C) a statement of the facts or conduct supporting the**
 9 **issuance of the order; and**
 10 **(2) be accompanied by a notice stating that the licensee is**
 11 **entitled to:**
 12 **(A) a reasonable opportunity to be heard; and**
 13 **(B) show the licensee's compliance with all lawful**
 14 **requirements for retention of the license;**
 15 **at the meeting described in subdivision (1)(A).**
 16 **(c) After the meeting described in subsection (b)(1)(A), the**
 17 **department may revoke or suspend the license if the department**
 18 **finds that:**
 19 **(1) the licensee has repeatedly and willfully violated:**
 20 **(A) this article or any applicable rule, order, or guidance**
 21 **document adopted or issued by the department; or**
 22 **(B) any other state or federal laws, rules, or regulations**
 23 **applicable to consumer credit transactions;**
 24 **(2) the licensee does not meet the licensing qualifications**
 25 **under section 26 of this chapter;**
 26 **(3) the licensee obtained the license for the benefit of, or on**
 27 **behalf of, a person who does not qualify for the license;**
 28 **(4) the licensee knowingly or intentionally made material**
 29 **misrepresentations to, or concealed material information**
 30 **from, the department; or**
 31 **(5) facts or conditions exist that, had they existed at the time**
 32 **the licensee applied for the license, would have been grounds**
 33 **for the department to deny the issuance of the license.**
 34 **(d) Whenever the department revokes or suspends a license,**
 35 **the department shall enter an order to that effect and forthwith**
 36 **notify the licensee of:**
 37 **(1) the revocation or suspension;**
 38 **(2) if a suspension has been ordered, the duration of the**
 39 **suspension;**
 40 **(3) the procedure for appealing the revocation or suspension**
 41 **under IC 4-21.5-3-6; and**
 42 **(4) any other terms and conditions that apply to the**

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1 revocation or suspension.
 2 Not later than five (5) days after the entry of the order the
 3 department shall deliver to the licensee a copy of the order and the
 4 findings supporting the order.

5 (e) Any person holding a license to make consumer loans may
 6 relinquish the license by notifying the department in writing of its
 7 relinquishment, but this relinquishment does not affect the person's
 8 liability for acts previously committed and coming within the scope
 9 of this article.

10 (f) If the director determines it is in the public interest, the
 11 director may pursue revocation of a license of a licensee that has
 12 relinquished the license under subsection (e).

13 (g) If a person's license is revoked, suspended, or relinquished,
 14 the revocation, suspension, or relinquishment does not impair or
 15 affect any obligation owed by any person under any preexisting
 16 lawful contract.

17 (h) If the director has just cause to believe an emergency exists
 18 from which it is necessary to protect the interests of the public, the
 19 director may proceed with the revocation of a license through an
 20 emergency or another temporary order under IC 4-21.5-4.

21 Sec. 33. (a) Every creditor required to be licensed under this
 22 article shall maintain records in conformity with United States
 23 generally accepted accounting principles and practices, or in any
 24 other form that may be preapproved at the discretion of the
 25 director, in a manner that will enable the department to determine
 26 whether the licensee is complying with the provisions of this article.
 27 The record keeping system of a licensee shall be sufficient if the
 28 licensee makes the required information reasonably available. The
 29 department shall determine the sufficiency of the records and
 30 whether the licensee has made the required information reasonably
 31 available. The department shall be given free access to the records
 32 wherever located. The records pertaining to any loan shall be
 33 retained for two (2) years after making the final entry relating to
 34 the loan, but in the case of a revolving loan account the two (2)
 35 years is measured from the date of each entry. A person licensed
 36 or required to be licensed under this chapter is subject to
 37 IC 28-1-2-30.5 with respect to any records maintained by the
 38 person. A person that is exempt (either under this article or under
 39 IC 37-1-1-6(8)) from licensing and that sponsors one (1) or more
 40 licensed mortgage loan originators as permitted by IC 37-1-1-6(8)
 41 or by 750 IAC 9, shall:

42 (1) cooperate with the department; and

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1 (2) provide access to records and documents;
2 as required by the department in carrying out examinations of the
3 activities of the licensed mortgage loan originators sponsored by
4 the person.

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

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

14 (d) Each:

15 (1) creditor that is licensed by the department to engage in
16 mortgage transactions; and

17 (2) person that is exempt (either under this article or under
18 IC 37-1-1-6(8)) from licensing and that:

19 (A) employs one (1) or more licensed mortgage loan
20 originators; or

21 (B) sponsors one (1) or more licensed mortgage loan
22 originators as permitted by IC 37-1-1-6(8) or by 750
23 IAC 9;

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

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

38 (f) A creditor required to be licensed under this article shall
39 file notification with the department if the licensee:

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

41 (2) opens a new branch, closes an existing branch, or
42 relocates an existing branch;

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- 1 (3) files for bankruptcy or reorganization; or
 2 (4) is subject to revocation or suspension proceedings by a
 3 state or governmental authority with regard to the licensee's
 4 activities;

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

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

13 Sec. 34. (a) As used in this section, "automated loan machine"
 14 means an unmanned machine that performs routine lending
 15 functions.

16 (b) A licensee may make loans through an automated loan
 17 machine at an offsite location if the licensee:

- 18 (1) notifies the department in writing of the existence and
 19 location of the automated loan machine;
 20 (2) maintains at a location licensed or approved by the
 21 department the books, accounts, records, and files
 22 concerning transactions performed through the automated
 23 loan machine; and
 24 (3) posts at the offsite location where the automated loan
 25 machine is located the:

26 (A) address where the books, accounts, records and files
 27 are located; and

28 (B) telephone number at which the licensee may be
 29 contacted.

30 Sec. 35. (a) With respect to a supervised loan, including a loan
 31 pursuant to a revolving loan account, a supervised lender may
 32 contract for and receive a loan finance charge not exceeding that
 33 permitted by this section.

34 (b) The loan finance charge, calculated according to the
 35 actuarial method, may not exceed the equivalent of the greater of:

36 (1) the total of:

37 (A) thirty-six percent (36%) per year on that part of the
 38 unpaid balances of the principal which is two thousand
 39 dollars (\$2,000) or less;

40 (B) twenty-one percent (21%) per year on that part of
 41 the unpaid balances of the principal which is more than
 42 two thousand dollars (\$2,000) but does not exceed four

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1 thousand dollars (\$4,000); and

2 (C) fifteen percent (15%) per year on that part of the
3 unpaid balances of the principal which is more than four
4 thousand dollars (\$4,000); or

5 (2) twenty-five percent (25%) per year on the unpaid
6 balances of the principal.

7 (c) In the case of a loan agreement entered into before July 1,
8 2020, this section does not limit or restrict the manner of
9 contracting for the loan finance charge, whether by way of add-on,
10 discount, or otherwise, so long as the rate of the loan finance
11 charge does not exceed that permitted by this section. If the loan is
12 precomputed:

13 (1) the loan finance charge may be calculated on the
14 assumption that all scheduled payments will be made when
15 due; and

16 (2) the effect of prepayment is governed by the provisions on
17 rebate upon prepayment in section 13 of this chapter.

18 After June 30, 2020, a loan agreement may not be entered into for
19 a precomputed supervised loan. The loan finance charge
20 authorized by this section must be contracted for between the
21 lender and the debtor, and must be calculated by applying a rate
22 not exceeding the rate set forth in subsection (b) to unpaid balances
23 of the principal.

24 (d) The term of a loan for the purposes of this section
25 commences on the date the loan is made. Differences in the lengths
26 of months are disregarded, and a day may be counted as
27 one-thirtieth (1/30) of a month. Subject to classifications and
28 differentiations the lender may reasonably establish, a part of a
29 month in excess of fifteen (15) days may be treated as a full month
30 if periods of fifteen (15) days or less are disregarded and that
31 procedure is not consistently used to obtain a greater yield than
32 would otherwise be permitted.

33 (e) Subject to classifications and differentiations the lender
34 may reasonably establish, the lender may make the same loan
35 finance charge on all principal amounts within a specified range.

36 A loan finance charge does not violate subsection (b) if:

37 (1) when applied to the median amount within each range, it
38 does not exceed the maximum permitted in subsection (b);
39 and

40 (2) when applied to the lowest amount within each range, it
41 does not produce a rate of loan finance charge exceeding the
42 rate calculated according to subdivision (1) by more than



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- 1 eight percent (8%) of the rate calculated according to
2 subdivision (1).
- 3 **(f) The amounts of two thousand dollars (\$2,000) and four**
4 **thousand dollars (\$4,000) in subsection (b) and thirty dollars (\$30)**
5 **in subsection (g) are subject to change pursuant to the provisions**
6 **on adjustment of dollar amounts set forth in IC 37-2-1-5. However,**
7 **notwithstanding IC 37-2-1-5(a), for the adjustment of the amount**
8 **of thirty dollars (\$30), the Reference Base Index to be used is the**
9 **Index for October 1992. Notwithstanding IC 37-2-1-5(a), for the**
10 **adjustment of the amounts of two thousand dollars (\$2,000) and**
11 **four thousand dollars (\$4,000), the Reference Base Index to be used**
12 **is the Index for October 2012.**
- 13 **(g) With respect to a supervised loan not made pursuant to a**
14 **revolving loan account, the lender may contract for and receive a**
15 **minimum loan finance charge of not more than thirty dollars (\$30).**
16 **The minimum loan finance charge allowed under this subsection**
17 **may be imposed only if the lender does not assess a nonrefundable**
18 **prepaid finance charge under subsection (h) and:**
- 19 **(1) the debtor prepays in full a consumer loan, refinancing,**
20 **or consolidation, regardless of whether the loan, refinancing,**
21 **or consolidation is precomputed;**
- 22 **(2) the loan, refinancing, or consolidation prepaid by the**
23 **debtor is subject to a loan finance charge that:**
- 24 **(A) is contracted for by the parties; and**
25 **(B) does not exceed the rate prescribed in subsection (b);**
26 **and**
- 27 **(3) the loan finance charge earned at the time of prepayment**
28 **is less than the minimum loan finance charge contracted for**
29 **under this subsection.**
- 30 **(h) Except as provided in subsections (g) and (j)(3), in addition**
31 **to the loan finance charge provided for in this section and to any**
32 **other charges and fees permitted by this chapter, the lender may**
33 **contract for and receive a nonrefundable prepaid finance charge**
34 **of not more than fifty dollars (\$50) if the loan agreement is entered**
35 **into before July 1, 2020. If the loan agreement is entered into after**
36 **June 30, 2020, not more than the following:**
- 37 **(1) Seventy-five dollars (\$75), in the case of a loan agreement**
38 **for a principal amount which is two thousand dollars**
39 **(\$2,000) or less.**
- 40 **(2) One hundred fifty dollars (\$150) in the case of a loan**
41 **agreement for a principal amount which is more than two**
42 **thousand dollars (\$2,000) but does not exceed four thousand**

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1 dollars (\$4,000).

2 (3) Two hundred dollars (\$200) in the case of a loan
3 agreement for a principal amount which is more than four
4 thousand dollars (\$4,000).

5 The amounts in this subsection are not subject to change under
6 IC 37-2-1-5.

7 (i) The nonrefundable prepaid finance charge provided for in
8 subsection (h) is not subject to refund or rebate. However, for any
9 supervised loan entered into after June 30, 2020, any amount
10 charged by the lender, other than by a lender that is a depository
11 institution, under subsection (h) that exceeds the applicable amount
12 permitted by subsection (h) constitutes a violation of this article
13 under IC 37-2-7-8(12) and is subject to refund. Any amount
14 charged by a depository institution under subsection (h) that
15 exceeds the applicable amount set forth in subsection (h) is subject
16 to refund.

17 (j) Notwithstanding subsections (h) and (i), in the case of a
18 supervised loan that is not secured by an interest in land, if a
19 lender retains any part of a nonrefundable prepaid finance charge
20 charged on a loan that is paid in full by a new loan from the same
21 lender, the following apply:

22 (1) If the loan is paid in full by the new loan within three (3)
23 months after the date of the prior loan, the lender may not
24 charge a nonrefundable prepaid finance charge on the new
25 loan, or, in the case of a revolving loan, on the increased
26 credit line.

27 (2) The lender may not assess more than two (2)
28 nonrefundable prepaid finance charges in any twelve (12)
29 month period.

30 (3) Subject to subdivisions (a) and (b), if a supervised loan
31 that is entered into by a lender and a debtor before July 1,
32 2020, is paid in full by a new loan from the same lender after
33 June 30, 2020, the lender may contract for and receive a
34 nonrefundable prepaid finance charge in the amount set
35 forth in subsection (h) for loan agreements entered into after
36 June 30, 2020.

37 (k) In the case of a supervised loan that is secured by an
38 interest in land, this section does not prohibit a lender from
39 contracting for and receiving a fee for preparing deeds, mortgages,
40 reconveyances, and similar documents under section 5(a)(4)(B) of
41 this chapter, in addition to the nonrefundable prepaid finance
42 charge provided for in subsection (h).

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1 **Sec. 36.** With respect to a consumer loan, no lender may
 2 permit any person, or husband and wife, to become obligated in
 3 any way under more than one loan agreement with the lender or
 4 with a person related to the lender, with intent to obtain a higher
 5 rate of loan finance charge than would otherwise be permitted by
 6 the provisions on loan finance charge for supervised loans set forth
 7 in section 35 of this chapter or to avoid disclosure of an annual
 8 percentage rate pursuant to the provisions on disclosure set forth
 9 in section 14 of this chapter. The excess amount of loan finance
 10 charge provided for in agreements in violation of this section is an
 11 excess charge for the purposes of the provisions on effect of
 12 violations on rights of parties (IC 37-2-6-9) and the provisions on
 13 civil actions by the department (IC 37-2-7-14).

14 **Sec. 37. (a)** With respect to a supervised loan in which the
 15 principal is four thousand dollars (\$4,000) or less, a lender may not
 16 contract for an interest in land as security. A security interest
 17 taken in violation of this section is void.

18 **(b)** The amount of four thousand dollars (\$4,000) in subsection
 19 **(a)** is subject to change pursuant to the provisions on adjustment
 20 of dollar amounts set forth in IC 37-2-1-5. However,
 21 notwithstanding IC 37-2-1-5(a), the Reference Base Index to be
 22 used under this subsection is the Index for October 2012.

23 **Sec. 38. (a)** Supervised loans not made pursuant to a revolving
 24 loan account and in which the principal is four thousand dollars
 25 (\$4,000) or less are payable in a single installment or shall be
 26 scheduled to be payable in substantially equal installments that are
 27 payable at equal periodic intervals, except to the extent that the
 28 schedule of payments is adjusted to the seasonal or irregular
 29 income of the debtor, and:

- 30 **(1)** over a period of not more than thirty-seven (37) months
 31 if the principal is more than three hundred dollars (\$300); or
 32 **(2)** over a period of not more than twenty-five (25) months if
 33 the principal is three hundred dollars (\$300) or less.

34 **(b)** The amounts of three hundred dollars (\$300) and four
 35 thousand dollars (\$4,000) in subsection **(a)** are subject to change
 36 pursuant to the provisions on adjustment of dollar amounts set
 37 forth in IC 37-2-1-5. However, notwithstanding IC 37-2-1-5(a), the
 38 Reference Base Index to be used with respect to the amount of:

- 39 **(1)** three hundred dollars (\$300) is the Index for October
 40 1992; and
 41 **(2)** four thousand dollars (\$4,000) is the Index for October
 42 2012.

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1 **Sec. 39.** A licensee may carry on other business at a location
 2 where the licensee makes consumer loans unless the licensee
 3 carries on other business for the purpose of evasion or violation of
 4 this article.

5 **Sec. 40. (a)** As used in this section, "control" means possession
 6 of the power directly or indirectly to:

- 7 (1) direct or cause the direction of the management or
 8 policies of a creditor, whether through the beneficial
 9 ownership of voting securities, by contract, or otherwise; or
 10 (2) vote at least twenty-five percent (25%) of the voting
 11 securities of a creditor, whether the voting rights are derived
 12 through the beneficial ownership of voting securities, by
 13 contract, or otherwise.

14 **(b)** An organization or an individual acting directly, indirectly,
 15 or through or in concert with one (1) or more other organizations
 16 or individuals may not acquire control of any creditor unless the
 17 department has received and approved an application for change
 18 in control. The department has not more than one hundred twenty
 19 (120) days after receipt of an application to issue a notice
 20 approving the proposed change in control. The application must
 21 contain the name and address of the organization, individual, or
 22 individuals who propose to acquire control and any other
 23 information required by the director.

24 **(c)** The period for approval under subsection (b) may be
 25 extended:

- 26 (1) in the discretion of the director for an additional thirty
 27 (30) days; and
 28 (2) not more than two (2) additional times for not more than
 29 forty-five (45) days each time if:

30 (A) the director determines that the organization,
 31 individual, or individuals who propose to acquire
 32 control have not submitted substantial evidence of the
 33 qualifications described in subsection (d);

34 (B) the director determines that any material
 35 information submitted is substantially inaccurate; or

36 (C) the director has been unable to complete the
 37 investigation of the organization, individual, or
 38 individuals who propose to acquire control because of
 39 any delay caused by or the inadequate cooperation of
 40 the organization, individual, or individuals.

41 **(d)** The department shall issue a notice approving the
 42 application only after the department is satisfied that both of the

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- 1 following apply:
- 2 (1) The organization, individual, or individuals who propose
- 3 to acquire control are qualified by competence, experience,
- 4 character, and financial responsibility to control and operate
- 5 the creditor in a legal and proper manner.
- 6 (2) The interests of the owners and creditors of the creditor
- 7 and the interests of the public generally will not be
- 8 jeopardized by the proposed change in control.
- 9 (e) The director may determine, in the director's discretion,
- 10 that subsection (b) does not apply to a transaction if the director
- 11 determines that the direct or beneficial ownership of the creditor
- 12 will not change as a result of the transaction.
- 13 (f) The president or other chief executive officer of a creditor
- 14 shall report to the director any transfer or sale of securities of the
- 15 creditor that results in direct or indirect ownership by a holder or
- 16 an affiliated group of holders of at least ten percent (10%) of the
- 17 outstanding securities of the creditor. The report required by this
- 18 subsection must be made not later than ten (10) days after the
- 19 transfer of the securities on the books of the creditor.
- 20 (g) Depending on the circumstances of the transaction, the
- 21 director may reserve the right to require the organization,
- 22 individual, or individuals who propose to acquire control of a
- 23 creditor licensed under this article to apply for a new license under
- 24 section 26 of this chapter, instead of acquiring control of the
- 25 licensee under this section.
- 26 Sec. 41. The parties to a loan other than a consumer loan may
- 27 agree in writing signed by the parties that the loan is subject to the
- 28 provisions of this article applying to consumer loans. If the parties
- 29 so agree, the loan is a consumer loan for the purposes of this
- 30 article.
- 31 Sec. 42. (a) With respect to a consumer related loan, including
- 32 one made pursuant to a revolving loan account, the parties may
- 33 contract for the payment by the debtor of a loan finance charge,
- 34 calculated according to the actuarial method, not to exceed
- 35 twenty-five percent (25%) per year on the unpaid principal
- 36 balance.
- 37 (b) A person engaged in consumer related loans is not required
- 38 to comply with:
- 39 (1) the licensing requirements set forth in section 26 of this
- 40 chapter; or
- 41 (2) IC 37-2-7-24 through IC 37-2-7-26.
- 42 Sec. 43. (a) The agreement with respect to a consumer related

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1 loan may provide for only the following charges as a result of the
2 debtor's default:

3 (1) reasonable attorney's fees and reasonable expenses
4 incurred in realizing on a security interest;

5 (2) deferral charges not in excess of twenty-five percent
6 (25%) per year of the amount deferred for the period of
7 deferral; and

8 (3) other charges that could have been made had the loan
9 been a consumer loan.

10 (b) A provision in violation of this section is unenforceable.

11 Sec. 44. With respect to a loan other than a consumer loan or
12 a consumer related loan, the parties may contract for the payment
13 by the debtor of any loan finance charge.

14 Sec. 45. (a) In addition to any disclosures otherwise provided
15 by law, a lender soliciting loans using a negotiable check, facsimile,
16 or other negotiable instrument that may be used by a consumer to
17 activate a new loan shall disclose the following:

18 "This is a solicitation for a loan. Read the enclosed
19 disclosures before signing this agreement."

20 This notice shall be printed in at least ten point type and shall
21 appear conspicuously on the offer.

22 (b) If a negotiable check, a facsimile, or another instrument is
23 stolen or incorrectly received by someone other than the intended
24 payee and the instrument is fraudulently cashed, the consumer who
25 was the intended payee is not liable for the loan obligation.

26 Sec. 46. With respect to a consumer loan secured by an interest
27 in land used or expected to be used as the principal dwelling of the
28 debtor, a lender shall comply with IC 6-1.1-12-43.

29 Chapter 5. Insurance

30 Sec. 1. (a) Except as provided in subsection (b), this chapter
31 applies to insurance provided or to be provided in relation to a
32 consumer credit sale, a consumer lease, or a consumer loan.

33 (b) Section 17 of this chapter concerning cancellation by a
34 creditor applies to loans the primary purpose of which is the
35 financing of insurance. No other provision of this chapter applies
36 to insurance so financed.

37 (c) This chapter supplements and does not repeal IC 27-8-4
38 (the credit insurance act). The provisions of this article concerning
39 administrative controls, liabilities, and penalties do not apply to
40 persons acting as insurers, and the similar provisions of IC 27-8-4
41 do not apply to creditors and debtors.

42 Sec. 2. (a) Except as otherwise provided in this chapter and

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- 1 subject to the provisions on:
 2 (1) additional charges set forth in IC 37-2-3-5 and
 3 IC 37-2-4-5;
 4 (2) maximum charges set forth in IC 37-2-3-4 through
 5 IC 37-2-3-12; and
 6 (3) maximum charges set forth in IC 37-2-4-4 through
 7 IC 37-2-4-13;

8 a creditor may agree to provide insurance, and may contract for
 9 and receive a charge for insurance separate from and in addition
 10 to other charges. A creditor need not make a separate charge for
 11 insurance provided or required by the creditor. This article does
 12 not authorize the issuance of any insurance prohibited under any
 13 statute, or rule thereunder, governing the business of insurance.

14 (b) The excess amount of a charge for insurance provided for
 15 in agreements in violation of this chapter is an excess charge for
 16 the purposes of the provisions of the chapter on remedies and
 17 penalties (IC 37-2-6) as to effect of violations on rights of parties
 18 (IC 37-2-6-9) and of the provisions of IC 37-2-7 as to civil actions
 19 by the department (IC 37-2-7-14).

20 Sec. 3. If a creditor agrees with a debtor to provide insurance:
 21 (1) the insurance shall be evidenced by an individual policy
 22 or certificate of insurance delivered to the debtor, or sent to
 23 the debtor at the debtor's address as stated by the debtor,
 24 within thirty (30) days after the term of the insurance
 25 commences under the agreement between the creditor and
 26 debtor; or
 27 (2) the creditor shall promptly notify the debtor of any
 28 failure or delay in providing the insurance.

29 Sec. 4. (a) In applying the provisions of this article on
 30 unconscionability (IC 37-2-6-7 and IC 37-2-7-12) to a separate
 31 charge for insurance, consideration shall be given, among other
 32 factors, to:

- 33 (1) potential benefits to the debtor including the satisfaction
 34 of the debtor's obligations;
 35 (2) the creditor's need for the protection provided by the
 36 insurance; and
 37 (3) the relation between the amount and terms of credit
 38 granted and the insurance benefits provided.

39 (b) If consumer credit insurance otherwise complies with this
 40 chapter and other applicable law, neither the amount nor the term
 41 of the insurance nor the amount of a charge therefor is in itself
 42 unconscionable.

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1 **Sec. 5. (a) Except as provided in subsection (b), if a creditor**
 2 **contracts for or receives a separate charge for insurance, the**
 3 **amount charged to the debtor for the insurance may not exceed the**
 4 **premium to be charged by the insurer, as computed at the time the**
 5 **charge to the debtor is determined, conforming to any rate filings**
 6 **required by law and made by the insurer with the insurance**
 7 **commissioner.**

8 **(b) A creditor who provides consumer credit insurance in**
 9 **relation to a revolving charge account or revolving loan account**
 10 **may calculate the charge to the debtor in each billing cycle by**
 11 **applying the current premium rate to one (1) of the following:**

12 **(1) The average daily unpaid balance of the debt in the cycle.**

13 **(2) The unpaid balance of the debt or a median amount**
 14 **within a specified range of unpaid balances of debt on**
 15 **approximately the same day of the cycle. The day of the cycle**
 16 **need not be the day used in calculating the credit service**
 17 **charge under IC 37-2-3-4(f) or loan finance charge**
 18 **(IC 37-2-4-4 and IC 37-2-4-35), but the specified range shall**
 19 **be the range used for that purpose.**

20 **(3) The unpaid balances of principal calculated according to**
 21 **the actuarial method.**

22 **(4) The amount of the insurance benefit for the cycle.**

23 **Sec. 6. (a) Upon prepayment in full of a consumer credit sale**
 24 **or consumer loan by the proceeds of consumer credit insurance,**
 25 **the debtor or the debtor's estate is entitled to a refund of:**

26 **(1) any portion of a separate charge for insurance which by**
 27 **reason of prepayment is retained by the creditor or returned**
 28 **to the creditor by the insurer unless the charge was**
 29 **computed from time to time on the basis of the balances of**
 30 **the debtor's account; and**

31 **(2) any portion of an additional charge that is:**

32 **(A) assessed in accordance with IC 37-2-3-5(a)(3),**
 33 **IC 37-2-3-5(a)(8), IC 37-2-3-5(a)(5), or**
 34 **IC 37-2-4-5(a)(11); and**

35 **(B) subject to rebate upon prepayment.**

36 **(b) This chapter does not require a creditor to grant a refund**
 37 **or credit to the debtor if all refunds and credits due to the debtor**
 38 **under this chapter amount to less than one dollar (\$1), and except**
 39 **as provided in subsection (a) does not require the creditor to**
 40 **account to the debtor for any portion of a separate charge for**
 41 **insurance because:**

42 **(1) the insurance is terminated by performance of the**

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- 1 insurer's obligation;
- 2 (2) the creditor pays or accounts for premiums to the insurer
- 3 in amounts and at times determined by the agreement
- 4 between them; or
- 5 (3) the creditor receives directly or indirectly under any
- 6 policy of insurance a gain or advantage not prohibited by
- 7 law.
- 8 (c) Except as provided in subsection (b), the creditor or the
- 9 creditor's assignee shall promptly make an appropriate refund or
- 10 credit to the debtor for any separate charge made for insurance or
- 11 for an additional charge described in subsection (a)(2) if:
- 12 (1) the insurance is not provided or is provided for a term
- 13 shorter than the term for which the charge to the debtor for
- 14 insurance was computed; or
- 15 (2) the insurance or the protection provided in exchange for
- 16 the additional charge described in subsection (a)(2)
- 17 terminates prior to the end of the scheduled term of the
- 18 coverage because of prepayment in full or otherwise.
- 19 (d) An initial creditor, a subsequent creditor, or an assignee of
- 20 an initial or a subsequent creditor, shall maintain documentation
- 21 of any account that is subject to a refund or credit under this
- 22 section. The information maintained under this subsection shall be
- 23 made available to the department as necessary to determine
- 24 compliance with this section.
- 25 (e) A refund or credit required by subsection (c)(1) is
- 26 appropriate as to amount if it is computed according to a method
- 27 prescribed or approved by the insurance commissioner or a
- 28 formula filed by the insurer with the insurance commissioner at
- 29 least thirty (30) days before the debtor's right to a refund or credit
- 30 becomes determinable, unless the method or formula is used after
- 31 the insurance commissioner notifies the insurer that it is
- 32 disapproved.
- 33 (f) If a refund or credit required by subsection (a) or (c) is not
- 34 made to the debtor within sixty (60) days after the date the debt is
- 35 terminated, due to prepayment in full or otherwise, the creditor
- 36 shall pay to the debtor for each day after the sixty (60) day period
- 37 has expired an amount equal to the daily interest at the contracted
- 38 annual percentage rate on the amount of the refund required by
- 39 subsection (a) due at the time of prepayment or termination. The
- 40 director may impose an additional civil penalty of not greater than
- 41 one thousand dollars (\$1,000) per occurrence if a creditor engages
- 42 in a pattern or practice of failing to comply with this subsection.

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1 **Sec. 7. If a creditor requires insurance, upon notice to the**
 2 **creditor the debtor shall have the option of providing the required**
 3 **insurance through an existing policy of insurance owned or**
 4 **controlled by the debtor, or through a policy to be obtained and**
 5 **paid for by the debtor, but the creditor may for reasonable cause**
 6 **decline the insurance provided by the debtor.**

7 **Sec. 8. (a) A creditor may not contract for or receive a**
 8 **separate charge for insurance in connection with a deferral**
 9 **(IC 37-2-3-7 or IC 37-2-4-7), a refinancing (IC 37-2-3-8 or**
 10 **IC 37-2-4-8), or a consolidation (IC 37-2-3-9 or IC 37-2-4-9),**
 11 **unless:**

12 **(1) the debtor agrees at or before the time of the deferral,**
 13 **refinancing, or consolidation that the charge may be made;**

14 **(2) the debtor is or is to be provided with insurance for an**
 15 **amount or a term, or insurance of a kind, in addition to that**
 16 **to which the debtor would have been entitled had there been**
 17 **no deferral, refinancing, or consolidation;**

18 **(3) the debtor receives a refund or credit on account of any**
 19 **unexpired term of existing insurance in the amount that**
 20 **would be required if the insurance were terminated under**
 21 **section 6 of this chapter; and**

22 **(4) the charge does not exceed the amount permitted by**
 23 **section 5 of this chapter.**

24 **(b) A creditor may not contract for or receive a separate**
 25 **charge for insurance which duplicates insurance with respect to**
 26 **which the creditor has previously contracted for or received a**
 27 **separate charge.**

28 **Sec. 9. The department and the insurance commissioner are**
 29 **authorized and directed to consult and assist one another in**
 30 **maintaining compliance with this chapter. They may jointly pursue**
 31 **investigations, prosecute suits, and take other official action, as**
 32 **may seem to them appropriate, if either of them is otherwise**
 33 **empowered to take the action. If the department is informed of a**
 34 **violation or suspected violation by an insurer of this chapter, or of**
 35 **the insurance laws, rules, and regulations of Indiana, the**
 36 **department shall advise the insurance commissioner of the**
 37 **circumstances.**

38 **Sec. 10. (a) To the extent that the commissioner's responsibility**
 39 **under this chapter requires, the commissioner of insurance shall**
 40 **issue rules with respect to insurers, and with respect to refunds**
 41 **(section 6 of this chapter), forms, schedules of premium rates and**
 42 **charges (section 13 of this chapter), and the commissioner's**

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1 approval or disapproval thereof and, in case of violation, may
2 make an order for compliance.

3 (b) IC 4-21.5-3 applies to and governs all agency action taken
4 by the commissioner of insurance pursuant to this section.

5 Sec. 11. (a) Consumer credit insurance provided by a creditor
6 may be subject to the furnishing of evidence of insurability
7 satisfactory to the insurer. Whether or not such evidence is
8 required, the term of the insurance shall commence no later than
9 when the debtor becomes obligated to the creditor or when the
10 debtor applies for the insurance, whichever is later, except as
11 follows:

12 (1) if any required evidence of insurability is not furnished
13 until more than thirty (30) days after the term would
14 otherwise commence, the term may commence on the date
15 when the insurer determines the evidence to be satisfactory;
16 or

17 (2) if the creditor provides insurance not previously provided
18 covering debts previously created, the term may commence
19 on the effective date of the policy.

20 (b) The originally scheduled term of the insurance shall extend
21 at least until the due date of the last scheduled payment of the debt
22 except as follows:

23 (1) if the insurance relates to a revolving charge account or
24 revolving loan account, the term need extend only until the
25 payment of the debt under the account and may be sooner
26 terminated after at least thirty (30) days notice to the debtor;
27 or

28 (2) if the debtor is advised in writing that the insurance will
29 be written for a specified shorter time, the term need extend
30 only until the end of the specified time.

31 (c) The term of the insurance shall not extend more than
32 fifteen (15) days after the originally scheduled due date of the last
33 scheduled payment of the debt unless it is extended without
34 additional cost to the debtor or as an incident to a deferral;
35 refinancing, or consolidation.

36 Sec. 12. (a) Except as provided in subsection (b):

37 (1) in the case of consumer credit insurance providing life
38 coverage, the amount of insurance may not initially exceed
39 the debt and, if the debt is payable in installments, may not
40 at any time exceed the greater of the scheduled or actual
41 amount of the debt; or

42 (2) in the case of any other consumer credit insurance, the

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1 total amount of periodic benefits payable may not exceed the
 2 total of scheduled unpaid installments of the debt, and the
 3 amount of any periodic benefit may not exceed the original
 4 amount of debt divided by the number of periodic
 5 installments in which it is payable.

6 (b) If consumer credit insurance is provided in connection with
 7 a revolving charge account or revolving loan account, the amounts
 8 payable as insurance benefits may be reasonably commensurate
 9 with the amount of debt as it exists from time to time. If consumer
 10 credit insurance is provided in connection with a commitment to
 11 grant credit in the future, the amounts payable as insurance
 12 benefits may be reasonably commensurate with the total from time
 13 to time of the amount of debt and the amount of the commitment.

14 Sec. 13. (a) A creditor may not use a form, or a schedule of
 15 premium rates or charges, the filing of which is required by this
 16 section, if the insurance commissioner has disapproved the form or
 17 schedule and has notified the insurer of the insurance
 18 commissioner's disapproval. A creditor may not use a form or
 19 schedule unless:

20 (1) the form or schedule has been on file with the insurance
 21 commissioner for thirty (30) days, or has earlier been
 22 approved by the commissioner; and

23 (2) the insurer has complied with this section with respect to
 24 the insurance.

25 (b) Except as provided in subsection (c), all policies,
 26 certificates of insurance, notices of proposed insurance,
 27 applications for insurance, endorsements and riders relating to
 28 consumer credit insurance delivered or issued for delivery in this
 29 state, and the schedules of premium rates or charges pertaining
 30 thereto, shall be filed by the insurer with the insurance
 31 commissioner. Within thirty (30) days after the filing of any form
 32 or schedule, the commissioner shall disapprove it if the premium
 33 rates or charges are unreasonable in relation to the benefits
 34 provided under the form, or if the form contains provisions which
 35 are unjust, unfair, inequitable, or deceptive, or encourage
 36 misrepresentation of the coverage, or are contrary to any provision
 37 of IC 27 or of any rule promulgated under IC 27.

38 (c) If a group policy has been delivered in another state, the
 39 forms to be filed by the insurer with the insurance commissioner
 40 are the group certificates and notices of proposed insurance. The
 41 commissioner shall approve them if:

42 (1) they provide the information that would be required if

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1 the group policy were delivered in this state; and

2 (2) the applicable premium rates or charges do not exceed
3 those established by the commissioner's rules.

4 Sec. 14. (a) A creditor may not contract for or receive a
5 separate charge for insurance against loss of or damage to
6 property unless:

7 (1) the insurance covers a substantial risk of loss of or
8 damage to property related to the credit transaction;

9 (2) the amount, terms, and conditions of the insurance are
10 reasonable in relation to the character and value of the
11 property insured or to be insured; and

12 (3) the term of the insurance is reasonable in relation to the
13 terms of credit.

14 (b) The term of the insurance is reasonable if it is customary
15 and does not extend substantially beyond a scheduled maturity.

16 (c) A creditor may not contract for or receive a separate
17 charge for insurance against loss of or damage to property unless
18 the amount financed or principal exclusive of charges for the
19 insurance is three hundred dollars (\$300) or more, and the value
20 of the property is three hundred dollars (\$300) or more.

21 (d) The amounts of three hundred dollars (\$300) in subsection
22 (c) are subject to change pursuant to the provisions on adjustment
23 of dollar amounts (IC 37-2-1-5). However, notwithstanding
24 IC 37-2-1-5(a), the Reference Base Index to be used under this
25 subsection is the Index for October 1992.

26 Sec. 15. If a creditor contracts for or receives a separate
27 charge for insurance against loss of or damage to property, the risk
28 of loss or damage not willfully caused by the debtor is on the
29 debtor only to the extent of any deficiency in the effective coverage
30 of the insurance, even though the insurance covers only the interest
31 of the creditor.

32 Sec. 16. A creditor may not contract for or receive a separate
33 charge for insurance against liability unless the insurance covers
34 a substantial risk of liability arising out of the ownership or use of
35 property related to the credit transaction.

36 Sec. 17. A creditor shall not request cancellation of a policy of
37 property or liability insurance except after the debtor's default or
38 in accordance with a written authorization by the debtor, and in
39 either case the cancellation does not take effect until written notice
40 is delivered to the debtor or mailed to the debtor at the debtor's
41 address as stated by the debtor. The notice shall state that the
42 policy may be canceled on a date not less than ten (10) days after

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1 the notice is delivered, or, if the notice is mailed, not less than
2 thirteen (13) days after it is mailed.

3 Sec. 18. Upon the payment in full of a consumer credit sale or
4 consumer loan, the creditor or creditor's assignee shall promptly
5 make an appropriate refund of the unearned premium for any
6 property insurance with respect to which the creditor or the credit
7 account of the consumer is a beneficiary.

8 Chapter 6. Remedies and Penalties

9 Sec. 0.1. The amendments made to IC 24-4.5-5-203 (before its
10 repeal) by P.L.181-1991 applied to causes of action accruing after
11 June 30, 1991.

12 Sec. 1. Sections 0.1 through 7 of this chapter apply to:

- 13 (1) actions or other proceedings to enforce rights arising
14 from consumer credit sales, consumer leases, and consumer
15 loans;
16 (2) garnishments of the earnings of an individual; and
17 (3) extortionate extensions of credit.

18 Sec. 2. (a) This section applies to a consumer credit sale of
19 goods or services.

20 (b) If the seller repossesses or voluntarily accepts surrender of
21 goods which were the subject of the sale and in which the seller has
22 a security interest, and the cash price of the goods repossessed or
23 surrendered was four thousand dollars (\$4,000) or less, the buyer
24 is not personally liable to the seller for the unpaid balance of the
25 debt arising from the sale of the goods, and the seller is not
26 obligated to resell the collateral.

27 (c) If the seller repossesses or voluntarily accepts surrender of
28 goods which were not the subject of the sale but in which the seller
29 has a security interest to secure a debt arising from a sale of goods
30 or services or a combined sale of goods and services and the cash
31 price of the sale was four thousand dollars (\$4,000) or less, the
32 buyer is not personally liable to the seller for the unpaid balance of
33 the debt arising from the sale.

34 (d) For the purpose of determining the unpaid balance of
35 consolidated debts or debts pursuant to revolving charge accounts,
36 the allocation of payments to a debt shall be determined in the
37 same manner as provided for determining the amount of debt
38 secured by various security interests under IC 37-2-3-20.

39 (e) The buyer may be liable in damages to the seller if the
40 buyer has wrongfully damaged the collateral or if, after default
41 and demand, the buyer has wrongfully failed to make the collateral
42 available to the seller.

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1 (f) If the seller elects to bring an action against the buyer for
 2 a debt arising from a consumer credit sale of goods or services, and
 3 under this section the seller would not be entitled to a deficiency
 4 judgment if the seller repossessed the collateral, and the seller
 5 obtains a judgment:

- 6 (1) the seller may not repossess the collateral; and
 7 (2) the collateral is not subject to levy or sale on execution or
 8 similar proceedings pursuant to the judgment.

9 (g) The amounts of four thousand dollars (\$4,000) in
 10 subsections (b) and (c) are subject to change pursuant to the
 11 provisions on adjustment of dollar amounts (IC 37-2-1-5).
 12 However, notwithstanding IC 37-2-1-5(a), the Reference Base
 13 Index to be used under this subsection is the Index for October
 14 2012.

15 Sec. 3. Prior to entry of judgment in an action against the
 16 debtor, no creditor may attach unpaid earnings of the debtor by
 17 garnishment or like proceedings.

18 Sec. 4. (a) For the purposes of sections 1 through 7 of this
 19 chapter:

20 (1) "disposable earnings" means that part of the earnings of
 21 an individual, including wages, commissions, income, rents,
 22 or profits remaining after the deduction from those earnings
 23 of amounts required by law to be withheld;

24 (2) "garnishment" means any legal or equitable proceedings
 25 through which the earnings of an individual are required to
 26 be withheld by a garnishee, by the individual debtor, or by
 27 any other person for the payment of a judgment; and

28 (3) "support withholding" means that part of the earnings
 29 that are withheld from an individual for child support in
 30 accordance with the laws of this state.

31 (b) Except as provided in subsection (h), the maximum part of
 32 the aggregate disposable earnings of an individual for any
 33 workweek which is subjected to garnishment to enforce the
 34 payment of one (1) or more judgments against the individual may
 35 not exceed the lesser of the following amounts:

36 (1) An amount equal to twenty-five percent (25%) of the
 37 individual's disposable earnings for that week or, upon a
 38 showing of good cause by the individual why the amount
 39 should be reduced, an amount equal to:

- 40 (A) less than twenty-five percent (25%); and
 41 (B) at least ten percent (10%);

42 of the individual's disposable earnings for that week.

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1 (2) The amount by which the individual's disposable earnings
2 for that week exceed thirty (30) times the federal minimum
3 hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the
4 time the earnings are payable.

5 In the case of earnings for a pay period other than a week, the
6 earnings shall be computed upon a multiple of the federal
7 minimum hourly wage equivalent to thirty (30) times the federal
8 minimum hourly wage as prescribed in this section.

9 (c) The maximum part of the aggregate disposable earnings of
10 an individual for any workweek which is subject to garnishment or
11 support withholding to enforce any order for the support of any
12 person shall not exceed:

13 (1) where such individual is supporting the individual's
14 spouse or dependent child (other than a spouse or child with
15 respect to whose support such order is used), fifty percent
16 (50%) of such individual's disposable earnings for that week;
17 and

18 (2) where such individual is not supporting such a spouse or
19 dependent child described in subdivision (1), sixty percent
20 (60%) of such individual's disposable earnings for that week;

21 except that, with respect to the disposable earnings of any
22 individual for any workweek, the fifty percent (50%) specified in
23 subdivision (1) shall be deemed to be fifty-five percent (55%) and
24 the sixty percent (60%) specified in subdivision (2) shall be deemed
25 to be sixty-five percent (65%), if and to the extent that such
26 earnings are subject to garnishment or support withholding to
27 enforce a support order with respect to a period which is prior to
28 the twelve (12) week period which ends with the beginning of such
29 workweek.

30 (d) No court may make, execute, or enforce an order or
31 process in violation of this section.

32 (e) An employer who is required to make deductions from an
33 individual's disposable earnings pursuant to a garnishment order
34 or series of orders arising out of the same judgment debt
35 (excluding a judgment for payment of child support) may collect,
36 as a fee to compensate the employer for making these deductions,
37 an amount equal to the greater of twelve dollars (\$12) or three
38 percent (3%) of the total amount required to be deducted by the
39 garnishment order or series of orders arising out of the same
40 judgment debt. If the employer chooses to impose a fee, the fee
41 shall be allocated as follows:

42 (1) One-half (1/2) of the fee shall be borne by the debtor, and

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1 that amount may be deducted by the employer directly from
2 the employee's disposable earnings.

3 **(2) One-half (1/2) of the fee shall be borne by the creditor,**
4 **and that amount may be retained by the employer from the**
5 **amount otherwise due the creditor.**

6 **The deductions made under this subsection for a collection fee do**
7 **not increase the amount of the judgment debt for which the fee is**
8 **collected for the purpose of calculating or collecting judgment**
9 **interest. This fee may be collected by an employer only once for**
10 **each garnishment order or series of orders arising out of the same**
11 **judgment debt. The employer may collect the entire fee from one**
12 **(1) or more of the initial deductions from the employee's disposable**
13 **earnings. Alternatively, the employer may collect the fee ratably**
14 **over the number of pay periods during which deductions from the**
15 **employee's disposable earnings are required.**

16 **(f) The deduction of the garnishment collection fee under**
17 **subsection (e)(1) or subsection (g) is not an assignment of wages**
18 **under IC 22-2-6.**

19 **(g) An employer who is required to make a deduction from an**
20 **individual's disposable earnings in accordance with a judgment for**
21 **payment of child support may collect a fee of two dollars (\$2) each**
22 **time the employer is required to make the deduction. The fee may**
23 **be deducted by the employer from the individual's disposable**
24 **earnings each time the employer makes the deduction for support.**
25 **If the employer elects to deduct such a fee, the amount to be**
26 **deducted for the payment of support must be reduced accordingly**
27 **if necessary to avoid exceeding the maximum amount permitted to**
28 **be deducted under subsection (c).**

29 **(h) A support withholding order takes priority over a**
30 **garnishment order irrespective of their dates of entry or activation.**
31 **If a person is subject to a support withholding order and a**
32 **garnishment order, the garnishment order shall be honored only**
33 **to the extent that disposable earnings withheld under the support**
34 **withholding order do not exceed the maximum amount subject to**
35 **garnishment as computed under subsection (b).**

36 **Sec. 5. No employer shall discharge an employee for the reason**
37 **that a creditor or creditors of the employee has subjected or**
38 **attempted to subject unpaid earnings of the employee to**
39 **garnishment or like proceedings directed to the employer for the**
40 **purpose of paying a judgment or judgments.**

41 **Sec. 6. (a) If it is the understanding of the creditor and the**
42 **debtor at the time an extension of credit is made that delay in**

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1 making repayment or failure to make repayment could result in
 2 the use of violence or other criminal means to cause harm to the
 3 person, reputation, or property of any person, the repayment of the
 4 extension of credit is unenforceable through civil judicial processes
 5 against the debtor.

6 (b) If it is shown that an extension of credit was made at an
 7 annual rate exceeding forty-five percent (45%) calculated
 8 according to the actuarial method and that the creditor then had
 9 a reputation for the use or threat of use of violence or other
 10 criminal means to cause harm to the person, reputation, or
 11 property of any person to collect extensions of credit or to punish
 12 the nonrepayment thereof, there is prima facie evidence that the
 13 extension of credit was unenforceable under subsection (a).

14 Sec. 7. (a) With respect to a consumer credit sale, consumer
 15 lease, or consumer loan, if the court as a matter of law finds the
 16 agreement or any clause of the agreement to have been
 17 unconscionable at the time it was made the court may refuse to
 18 enforce the agreement, or it may enforce the remainder of the
 19 agreement without the unconscionable clause, or it may so limit the
 20 application of any unconscionable clause as to avoid any
 21 unconscionable result.

22 (b) If it is claimed or appears to the court that the agreement
 23 or any clause thereof may be unconscionable the parties shall be
 24 afforded a reasonable opportunity to present evidence as to its
 25 setting, purpose, and effect to aid the court in making the
 26 determination.

27 (c) For the purpose of this section, a charge or practice
 28 expressly permitted by this article is not in itself unconscionable.

29 Sec. 8. For purposes of the provisions on civil liability for
 30 violation of disclosure provisions set forth in section 10 of this
 31 chapter and on a debtor's right to rescind certain transactions set
 32 forth in section 11 of this chapter a:

33 (1) consumer credit sale includes a sale that is a first lien
 34 mortgage transaction if the sale is otherwise a consumer
 35 credit sale; and

36 (2) consumer loan includes a loan that is a first lien mortgage
 37 transaction if the loan is otherwise a consumer loan.

38 Sec. 9. (a) If a creditor has violated the provision of this article
 39 applying to limitations on the schedule of payments or loan term
 40 for supervised loans (IC 37-2-4-38), the debtor is not obligated to
 41 pay the loan finance charge, and has a right to recover from the
 42 person violating this article or from an assignee of that person's

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1 rights who undertakes direct collection of payments or
 2 enforcement of rights arising from the debt a penalty in an amount
 3 determined by the court not in excess of three times the amount of
 4 the loan finance charge. No action pursuant to this subsection may
 5 be brought more than one (1) year after the due date of the last
 6 scheduled payment of the agreement with respect to which the
 7 violation occurred.

8 (b) If a creditor has violated the provisions of this article
 9 applying to authority to make consumer loans (IC 37-2-4-23), the
 10 loan is void and the debtor is not obligated to pay either the
 11 principal or loan finance charge. If the debtor has paid any part of
 12 the principal or of the loan finance charge, the debtor has a right
 13 to recover the payment from the person violating this article or
 14 from an assignee of that person's rights who undertakes direct
 15 collection of payments or enforcement of rights arising from the
 16 debt. With respect to violations arising from loans made pursuant
 17 to revolving loan accounts, no action pursuant to this subsection
 18 may be brought more than two (2) years after the violation
 19 occurred. With respect to violations arising from other loans, no
 20 action pursuant to this subsection may be brought more than one
 21 (1) year after the due date of the last scheduled payment of the
 22 agreement pursuant to which the charge was paid.

23 (c) A debtor is not obligated to pay a charge in excess of that
 24 allowed by this article, and if the debtor has paid an excess charge
 25 the debtor has a right to a refund. A refund may be made by
 26 reducing the debtor's obligation by the amount of the excess
 27 charge. If the debtor has paid an amount in excess of the lawful
 28 obligation under the agreement, the debtor may recover the excess
 29 amount from the person who made the excess charge or from an
 30 assignee of that person's rights who undertakes direct collection of
 31 payments from or enforcement of rights against debtors arising
 32 from the debt.

33 (d) If a debtor is entitled to a refund and a person liable to the
 34 debtor refuses to make a refund within a reasonable time after
 35 demand, the debtor may recover from that person a penalty in an
 36 amount determined by a court not exceeding the greater of either
 37 the amount of the credit service or loan finance charge or ten (10)
 38 times the amount of the excess charge. If the creditor has made an
 39 excess charge in deliberate violation of or in reckless disregard for
 40 this article, the penalty may be recovered even though the creditor
 41 has refunded the excess charge. No penalty pursuant to this
 42 subsection may be recovered if a court has ordered a similar

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1 penalty assessed against the same person in a civil action by the
 2 department (IC 37-2-7-14). With respect to excess charges arising
 3 from sales made pursuant to revolving charge accounts or from
 4 loans made pursuant to revolving loan accounts, no action
 5 pursuant to this subsection may be brought more than two (2)
 6 years after the time the excess charge was made. With respect to
 7 excess charges arising from other consumer credit sales or
 8 consumer loans, no action pursuant to this subsection may be
 9 brought more than one (1) year after the due date of the last
 10 scheduled payment of the agreement pursuant to which the charge
 11 was made.

12 (e) Except as otherwise provided, no violation of this article
 13 impairs rights on a debt.

14 (f) If an employer discharges an employee in violation of the
 15 provisions prohibiting discharge (section 5 of this chapter), the
 16 employee may within six (6) months bring a civil action for
 17 recovery of wages lost as a result of the violation and for an order
 18 requiring the reinstatement of the employee. Damages recoverable
 19 shall not exceed lost wages for six (6) weeks.

20 (g) If the creditor establishes by a preponderance of evidence
 21 that a violation is unintentional or the result of a bona fide error,
 22 no liability is imposed under subsections (a), (b), and (d) and the
 23 validity of the transaction is not affected.

24 (h) In any case in which it is found that a creditor has violated
 25 this article, the court may award reasonable attorney's fees
 26 incurred by the debtor.

27 (i) The department may act on behalf of a debtor to enforce
 28 the debtor's rights under this section against a creditor who is
 29 licensed or registered with the department or is required to be
 30 licensed or registered with the department.

31 Sec. 10. (a) Except as otherwise provided in this section, a
 32 creditor who, in violation of the provisions on disclosure in
 33 IC 37-2-3-13 and IC 37-2-4-14, fails to disclose information to a
 34 person entitled to the information under this article is liable to that
 35 person in an amount equal to the sum of:

36 (1) the following:

37 (A) In the case of an individual action, twice the amount
 38 of the credit service or loan finance charge in connection
 39 with the transaction, but the liability pursuant to this
 40 subdivision shall be not less than one hundred dollars
 41 (\$100) nor more than one thousand dollars (\$1,000).

42 (B) In the case of a class action, an amount the court

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1 allows, except that as to each member of the class no
 2 minimum recovery is applicable, and the total recovery
 3 under this subdivision in any class action or series of
 4 class actions arising out of the same failure to comply by
 5 the same creditor may not be more than the lesser of:

- 6 (i) five hundred thousand dollars (\$500,000); or
 7 (ii) one percent (1%) of the net worth of the
 8 creditor.

9 (2) In the case of a successful action to enforce the liability
 10 under subdivision (1), the costs of the action together with
 11 reasonable attorney's fees as determined by the court. In
 12 determining the amount of the award in a class action, the
 13 court shall consider, among other relevant factors, the
 14 amount of any award granted under the Consumer Credit
 15 Protection Act (15 U.S.C. 1601 et seq.), the frequency and
 16 persistence of failures of compliance by the creditor, the
 17 resources of the creditor, the number of persons adversely
 18 affected, and the extent to which the creditor's failure of
 19 compliance was intentional.

20 (b) A creditor has no liability under this section if within sixty
 21 (60) days after discovering an error, and prior to the institution of
 22 an action under this section or the receipt of written notice of the
 23 error, the creditor notifies the person concerned of the error and
 24 makes whatever adjustments in the appropriate account are
 25 necessary to assure that the person will not be required to pay a
 26 credit service charge or loan finance charge in excess of the
 27 amount or percentage rate actually disclosed.

28 (c) A creditor may not be held liable in any action brought
 29 under this section for a violation of this article if the creditor shows
 30 by a preponderance of evidence that the violation was not
 31 intentional and resulted from a bona fide error notwithstanding
 32 the maintenance of procedures reasonably adapted to avoid the
 33 error.

34 (d) If there are multiple obligors in a consumer credit
 35 transaction or consumer lease, there may not be more than one (1)
 36 recovery of damages under subsection (a)(1) for one (1) violation
 37 of this article with respect to that consumer credit transaction or
 38 consumer lease.

39 (e) The multiple failure to disclose to any person any
 40 information required under this article to be disclosed in
 41 connection with a single account under an open end consumer
 42 credit plan, a single consumer credit sale, a consumer loan, a

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1 consumer lease, or another extension of consumer credit entitles
 2 that person to a single recovery under this section. However,
 3 continued failure to disclose after a recovery has been granted
 4 gives rise to rights to additional recoveries.

5 (f) Any action which may be brought under this section against
 6 the original creditor in any credit transaction involving a security
 7 interest in land may be maintained against any subsequent assignee
 8 of the original creditor where the assignee, its subsidiaries, or
 9 affiliates were in a continuing business relationship with the
 10 original creditor either at the time the credit was extended or at the
 11 time of the assignment, unless the assignment was involuntary, or
 12 the assignee shows by a preponderance of evidence that it did not
 13 have reasonable grounds to believe that the original creditor was
 14 engaged in violations of this article, and that it maintained
 15 procedures reasonably adapted to apprise it of the existence of the
 16 violations.

17 (g) No action pursuant to this section may be brought more
 18 than one (1) year after the date of the occurrence of the violations.

19 (h) In this section, creditor includes a person who in the
 20 ordinary course of business regularly extends or arranges for the
 21 extension of credit, or offers to arrange for the extension of credit.

22 Sec. 11. (a) A violation by a creditor of Section 125 of the
 23 Consumer Credit Protection Act concerning the debtor's right to
 24 rescind a transaction that is a consumer credit sale or a consumer
 25 loan constitutes a violation of this article. A creditor may not
 26 accrue interest during the period when a consumer loan may be
 27 rescinded under Section 125 of the Consumer Credit Protection
 28 Act (15 U.S.C. 1635).

29 (b) A creditor must make available for disbursement the
 30 proceeds of a transaction subject to subsection (a) on the later of:

- 31 (1) the date the creditor is reasonably satisfied that the
 32 consumer has not rescinded the transaction; or
 33 (2) the first business day after the expiration of the rescission
 34 period under subsection (a).

35 Sec. 12. Refunds or penalties to which the debtor is entitled
 36 pursuant to sections 8 through 11 of this chapter may be set off
 37 against the debtor's obligation, and may be raised as a defense to
 38 a suit on the obligation without regard to the time limitations
 39 prescribed by sections 8 through 11 of this chapter.

40 Sec. 13. (a) A lender who knowingly makes charges in excess
 41 of those permitted by the provisions of this article commits a Class
 42 A misdemeanor.

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1 (b) A person who knowingly engages in the business of making
 2 consumer loans without a license in violation of the provisions of
 3 this article applying to authority to make consumer loans
 4 (IC 37-2-4-23 and IC 37-2-4-24) commits a Class A misdemeanor.

5 (c) A person who knowingly:

6 (1) engages in the business of making consumer credit sales,
 7 consumer leases, or consumer loans, or of taking assignments
 8 of rights against debtors; and

9 (2) undertakes direct collection of payments or enforcement
 10 of these rights, without complying with the provisions of this
 11 article concerning notification (IC 37-2-7-25) or payment of
 12 fees (IC 37-2-7-26);

13 commits a Class A infraction.

14 Sec. 14. A person commits a Class A misdemeanor if the
 15 person knowingly gives false or inaccurate information or fails to
 16 provide information which the person is required to disclose under
 17 the provisions of IC 37-2-3-13 or IC 37-2-4-14.

18 Chapter 7. Administration

19 Sec. 1. (a) Sections 1 through 16 of this chapter apply to
 20 persons who:

21 (1) make or solicit consumer credit sales, consumer leases,
 22 consumer loans, consumer related sales (as described in
 23 IC 37-2-2-13.5), and consumer related loans (as described in
 24 IC 37-2-2-13.3); or

25 (2) directly collect payments from or enforce rights against
 26 debtors arising from sales, leases, or loans specified in
 27 subsection (a), wherever they are made.

28 (b) For purposes of sections 1 through 16 of this chapter:

29 (1) "consumer credit sale" includes a sale that is a first lien
 30 mortgage transaction if the sale is otherwise a consumer
 31 credit sale; and

32 (2) "consumer loan" includes a loan that is a first lien
 33 mortgage transaction if the loan is otherwise a consumer
 34 loan.

35 Sec. 2. The division of consumer credit shall have charge of the
 36 administration of this article.

37 Sec. 3. (a) In addition to other powers granted by this article,
 38 the department within the limitations provided by law may:

39 (1) receive and act on complaints, take action designed to
 40 obtain voluntary compliance with this article, or commence
 41 proceedings on the department's own initiative;

42 (2) counsel persons and groups on their rights and duties

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1 under this article;
 2 (3) establish programs for the education of consumers with
 3 respect to credit practices and problems;
 4 (4) make studies appropriate to effectuate the purposes and
 5 policies of this article and make the results available to the
 6 public;
 7 (5) adopt, amend, and repeal rules, orders, policies, and
 8 forms to carry out the provisions of this article;
 9 (6) maintain more than one (1) office within Indiana; and
 10 (7) appoint any necessary attorneys, hearing examiners,
 11 clerks, and other employees and agents and fix their
 12 compensation, and authorize attorneys appointed under this
 13 section to appear for and represent the department in court.

14 (b) No liability is imposed under this article for an act done or
 15 omitted in conformity with a rule, written notice, written opinion,
 16 written interpretation, or written directive of the department
 17 notwithstanding that after the act or omission the rule, written
 18 notice, written opinion, written interpretation, or written directive
 19 may be amended or repealed, or be determined by judicial or other
 20 authority to be invalid for any reason.

21 Sec. 4. (a) With respect to depository institutions, the powers
 22 of examination and investigation (section 5 of this chapter) and
 23 administrative enforcement (section 9 of this chapter) shall be
 24 exercised by the department. The department may, at its
 25 discretion, accept any examination of any financial institution
 26 made by a federal authority in lieu of the examination made under
 27 the provisions of this article. All other powers of the department
 28 under this article may be exercised by the director with respect to
 29 a depository institution.

30 (b) If the department receives a complaint or other
 31 information concerning noncompliance with this article by a
 32 depository institution, the director shall inform the official or
 33 agency having supervisory authority over the organization
 34 concerned. The department may request information about
 35 depository institutions from the officials or agencies supervising
 36 them.

37 (c) The department and any official or agency of this state
 38 having supervisory authority over a depository institution are
 39 authorized and directed to consult and assist one another in
 40 maintaining compliance with this article. They may jointly pursue
 41 investigations, prosecute suits, and take other official action, as
 42 they deem appropriate, if either of them otherwise is empowered

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1 to take the action.

2 Sec. 5. (a) In administering this article and in order to
3 determine whether the provisions of this article are being complied
4 with by persons engaging in acts subject to this article, the
5 department may examine the records of persons and may make
6 investigations of persons as may be necessary to determine
7 compliance. Records subject to examination under this section
8 include the following:

9 (1) Training, operating, and policy manuals.

10 (2) Minutes of:

11 (A) management meetings; and

12 (B) other meetings.

13 (3) Other records that the department determines are
14 necessary to perform its investigation or examination.

15 The department may also administer oaths or affirmations,
16 subpoena witnesses, and compel the attendance of witnesses,
17 including directors, executive officers, managers, principals,
18 mortgage loan originators, employees, independent contractors,
19 agents, and customers of the licensee, individual, or person subject
20 to this article. The department may also adduce evidence, and
21 require the production of any matter which is relevant to the
22 investigation. The department shall determine the sufficiency of the
23 records maintained and whether the person has made the required
24 information reasonably available. The records pertaining to any
25 transaction subject to this article shall be retained for two (2) years
26 after making the final entry relating to the consumer credit
27 transaction, but in the case of a revolving loan account or revolving
28 charge account, the two (2) years is measured from the date of each
29 entry.

30 (b) The department's examination and investigatory authority
31 under this article includes the following:

32 (1) The authority to require a creditor to refund overcharges
33 resulting from the creditor's noncompliance with the terms
34 of consumer credit sales, consumer leases, or consumer
35 loans.

36 (2) The authority to require a creditor to comply with the
37 prepayment penalty provisions set forth in IC 37-2-4-12.

38 (3) The authority to investigate complaints filed with the
39 department by debtors.

40 (c) If the department:

41 (1) investigates; or

42 (2) examines the books and records of;

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1 a person that is subject to sections 24 through 26 of this chapter,
2 the person shall pay all reasonably incurred costs of the
3 investigation or examination in accordance with the fee schedule
4 adopted by the department under IC 28-11-3-5. However, the
5 person is liable for the costs of an investigation or examination
6 under this subsection only to the extent that the costs exceed the
7 amount of the filing fees paid most recently under section 26 of this
8 chapter. Any costs required to be paid under this section shall be
9 paid not later than sixty (60) days after the person receives a notice
10 from the department of the costs being assessed. The department
11 may impose a fee, in an amount fixed by the department under
12 IC 28-11-3-5, for each day that the assessed costs are not paid,
13 beginning on the first day after the sixty (60) day period described
14 in this subsection.

15 (d) The department shall be given free access to the records
16 wherever located. In making any examination or investigation
17 authorized by this article, the director may control access to any
18 documents and records of the licensee or person under
19 examination or investigation. The director may take possession of
20 the documents and records or place a person in exclusive charge of
21 the documents and records in the place where the documents are
22 usually kept. During the period of control, the licensee or person
23 may not remove or attempt to remove any of the documents and
24 records except under a court order or with the consent of the
25 director. Unless the director has reasonable grounds to believe the
26 documents or records of the licensee or person have been, or are,
27 at risk of being altered or destroyed for purposes of concealing a
28 violation of this article, the licensee or person being examined or
29 investigated is entitled to access to the documents or records as
30 necessary to conduct the licensee's or person's ordinary business
31 affairs. If the person's records are located outside Indiana, the
32 records shall be made available to the department at a convenient
33 location within Indiana, or the person shall pay the reasonable and
34 necessary expenses for the department or its representative to
35 examine them where they are maintained. The department may
36 designate comparable officials of the state in which the records are
37 located to inspect them on behalf of the department.

38 (e) Upon a person's failure without lawful excuse to obey a
39 subpoena or to give testimony and upon reasonable notice to all
40 affected persons, the department may apply to any civil court with
41 jurisdiction for an order compelling compliance.

42 (f) The department shall not make public the name or identity

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1 of a person whose acts or conduct the department investigates
 2 pursuant to this section or the facts disclosed in the investigation,
 3 but this subsection does not apply to disclosures in actions or
 4 enforcement proceedings pursuant to this article.

5 (g) To discover violations of this article or to secure
 6 information necessary for the enforcement of this article, the
 7 department may investigate any:

8 (1) licensee or registrant; or

9 (2) person that the department suspects to be operating:

10 (A) without a license or registration, when a license or
 11 registration is required under this article; or

12 (B) otherwise in violation of this article.

13 The department has all investigatory and enforcement authority
 14 under this article that the department has under IC 28-11 with
 15 respect to financial institutions. If the department conducts an
 16 investigation under this section, the licensee, registrant, or other
 17 person investigated shall pay all reasonably incurred costs of the
 18 investigation in accordance with the fee schedule adopted under
 19 IC 28-11-3-5. Any costs required to be paid under this section shall
 20 be paid not later than sixty (60) days after the person receives a
 21 notice from the department of the costs being assessed. The
 22 department may impose a fee, in an amount fixed by the
 23 department under IC 28-11-3-5, for each day that the assessed
 24 costs are not paid, beginning on the first day after the sixty (60)
 25 day period described in this subsection.

26 (h) If a creditor contracts with an outside vendor to provide a
 27 service that would otherwise be undertaken internally by the
 28 creditor and be subject to the department's routine examination
 29 procedures, the person that provides the service to the creditor
 30 shall, at the request of the director, submit to an examination by
 31 the department. If the director determines that an examination
 32 under this subsection is necessary or desirable, the examination
 33 may be made at the expense of the person to be examined. If the
 34 person to be examined under this subsection refuses to permit the
 35 examination to be made, the director may order any creditor that
 36 is licensed by the department and that receives services from the
 37 person refusing the examination to:

38 (1) discontinue receiving one (1) or more services from the
 39 person; or

40 (2) otherwise cease conducting business with the person.

41 Sec. 6. To carry out the purposes of this chapter, the director
 42 may:

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- 1 (1) retain attorneys, accountants, or other professionals and
 2 specialists as examiners, auditors, or investigators to conduct
 3 or assist in the conduct of examinations or investigations;
 4 (2) enter into agreements or relationships with other
 5 government officials or regulatory associations to improve
 6 efficiencies and reduce regulatory burden by sharing:
 7 (A) resources;
 8 (B) standardized or uniform methods or procedures;
 9 and
 10 (C) documents, records, information, or evidence
 11 obtained under this section;
 12 (3) use, hire, contract, or employ public or privately
 13 available analytical systems, methods, or software to
 14 examine or investigate a licensee, an individual, or a person
 15 subject to this article;
 16 (4) accept and rely on examination or investigation reports
 17 made by other government officials, in or outside Indiana;
 18 (5) accept audit reports made by an independent certified
 19 public accountant for the licensee, individual, or person
 20 subject to this article in the course of that part of the
 21 examination covering the same general subject matter as the
 22 audit and may incorporate the audit report in the report of
 23 the examination, report of investigation, or other writing of
 24 the director; and
 25 (6) use, hire, contract, or employ public or privately
 26 available analytical systems, methods, software, or
 27 technology solutions to enable the department to capture and
 28 examine transaction level activity to:
 29 (A) verify and oversee compliance with; and
 30 (B) enforce;
 31 all state law concerning a small loan regulated under
 32 IC 37-3.
 33 Sec. 7. Except as otherwise provided, IC 4-21.5-3 governs all
 34 agency action taken by the department under this chapter or
 35 IC 37-2-4-22 through IC 37-2-4-39. All proceedings for
 36 administrative review under IC 4-21.5-3 or judicial review under
 37 IC 4-21.5-5 shall be held in Marion County. The provisions of
 38 IC 4-22-2 prescribing procedures for the adoption of rules by
 39 agencies apply to the adoption of rules by the department of
 40 financial institutions under this article.
 41 Sec. 8. It is a violation of this article for a person or individual
 42 subject to this article to:

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- 1 **(1) directly or indirectly employ any scheme, device, or**
- 2 **artifice to defraud or mislead borrowers or lenders or to**
- 3 **defraud any person;**
- 4 **(2) engage in any unfair or deceptive practice toward any**
- 5 **person;**
- 6 **(3) obtain property by fraud or misrepresentation;**
- 7 **(4) solicit or enter into a contract with a borrower that**
- 8 **provides in substance that the person or individual subject to**
- 9 **this article may earn a fee or commission through "best**
- 10 **efforts" to obtain a loan even though no loan is actually**
- 11 **obtained for the borrower;**
- 12 **(5) solicit, advertise, or enter into a contract for specific**
- 13 **interest rates, points, or other financing terms unless the**
- 14 **terms are actually available at the time of soliciting,**
- 15 **advertising, or contracting;**
- 16 **(6) conduct any business covered by this article without**
- 17 **holding a valid license as required under this article, or assist**
- 18 **or aid and abet any person in the conduct of business under**
- 19 **this article without a valid license as required under this**
- 20 **article;**
- 21 **(7) fail to make disclosures as required by this article and**
- 22 **any other applicable state or federal law, including**
- 23 **regulations under that law;**
- 24 **(8) fail to comply with this article or rules adopted under this**
- 25 **article, or fail to comply with any other state or federal law,**
- 26 **rule, or regulation, applicable to any business authorized or**
- 27 **conducted under this article;**
- 28 **(9) make, in any manner, any false or deceptive statement or**
- 29 **representation, including, with regard to the rates, points, or**
- 30 **other financing terms or conditions for a mortgage**
- 31 **transaction, or engage in bait and switch advertising;**
- 32 **(10) negligently make any false statement or knowingly and**
- 33 **willfully make any omission of material fact in connection**
- 34 **with any information or reports filed with a governmental**
- 35 **agency or the NMLSR or in connection with any**
- 36 **investigation conducted by the director or another**
- 37 **governmental agency;**
- 38 **(11) make any payment, threat, or promise, directly or**
- 39 **indirectly, to any person for the purposes of influencing the**
- 40 **independent judgment of the person in connection with a**
- 41 **mortgage transaction, or make any payment, threat, or**
- 42 **promise, directly or indirectly, to any appraiser of a**

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- 1 property, for the purposes of influencing the independent
 2 judgment of the appraiser with respect to the value of the
 3 property;
 4 (12) collect, charge, attempt to collect or charge, or use or
 5 propose any agreement purporting to collect or charge any
 6 fee prohibited by this article;
 7 (13) cause or require a borrower to obtain property
 8 insurance coverage in an amount that exceeds the
 9 replacement cost of the improvements as established by the
 10 property insurer;
 11 (14) fail to account truthfully for money belonging to a party
 12 to a mortgage transaction; or
 13 (15) knowingly withhold, abstract, remove, mutilate, destroy,
 14 or secrete any books, records, computer records, or other
 15 information subject to examination under this article.

16 **Sec. 9. (a) After notice and an opportunity to be heard, the**
 17 **department may order a creditor, or a person acting on behalf of**
 18 **the creditor, to cease and desist from engaging in violations of this**
 19 **article. A respondent aggrieved by an order of the department may**
 20 **obtain judicial review of the order and the department may obtain**
 21 **an order of the court for enforcement of its order in any civil court.**
 22 **The proceeding for review or enforcement is initiated by filing a**
 23 **petition in the court. Copies of the petition shall be served upon all**
 24 **parties of record.**

25 (b) Within thirty (30) days after service of the petition for
 26 review upon the department, or within any further time the court
 27 may allow, the department shall transmit to the court the original
 28 or a certified copy of the entire record upon which the order is
 29 based, including any transcript of testimony, which need not be
 30 printed. By stipulation of all parties to the review proceeding, the
 31 record may be shortened. After hearing the court may:

- 32 (1) reverse or modify the order if the findings of fact of the
 33 department are clearly erroneous in view of the reliable,
 34 probative, and substantial evidence on the whole record;
 35 (2) grant any temporary relief or restraining order it deems
 36 just; and
 37 (3) enter an order enforcing, modifying, and enforcing as
 38 modified, or setting aside in whole or in part the order of the
 39 department, or remanding the case to the department for
 40 further proceedings.

41 (c) An objection not urged at the hearing shall not be
 42 considered by the court unless the failure to urge the objection is

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1 excused for good cause shown. A party may move the court to
 2 remand the case to the department in the interest of justice for the
 3 purpose of adducing additional specified and material evidence and
 4 seeking finding thereon upon good cause shown for the failure to
 5 adduce this evidence before the department.

6 (d) The jurisdiction of the court shall be exclusive and its final
 7 judgment or decree shall be subject to review by the court on
 8 appeal in the same manner and form and with the same effect as in
 9 appeals from a final judgment or decree. The department's copy of
 10 the testimony shall be available at reasonable times to all parties
 11 for examination without cost.

12 (e) A proceeding for review under this section must be
 13 initiated within thirty (30) days after a copy of the order of the
 14 department is received. If no proceeding is so initiated, the
 15 department may obtain a decree of the civil court for enforcement
 16 of its order upon a showing that an order was issued in compliance
 17 with this section, that no proceeding for review was initiated within
 18 thirty (30) days after copy of the order was received, and that the
 19 respondent is subject to the jurisdiction of the court.

20 (f) With respect to unconscionable agreements or fraudulent
 21 or unconscionable conduct by the respondent, the department may
 22 not issue an order pursuant to this section but may bring a civil
 23 action for an injunction under section 12 of this chapter.

24 Sec. 10. If it is claimed that a person has engaged in conduct
 25 subject to an order by the department under section 9 of this
 26 chapter or by a court under sections 11 through 13 of this chapter,
 27 the department may accept an assurance in writing that the person
 28 will not engage in the conduct in the future. If a person giving an
 29 assurance of discontinuance fails to comply with its terms, the
 30 assurance is evidence that prior to the assurance the person
 31 engaged in the conduct described in the assurance.

32 Sec. 11. The department may bring a civil action to restrain a
 33 person from violating this article or another state or federal law or
 34 regulation, and for other appropriate relief.

35 Sec. 12. (a) The department may bring a civil action to restrain
 36 a creditor or a person acting in behalf of a creditor from engaging
 37 in a course of:

38 (1) making or enforcing unconscionable terms or provisions
 39 of consumer credit sales, consumer leases, or consumer
 40 loans;

41 (2) fraudulent or unconscionable conduct in inducing debtors
 42 to enter into consumer credit sales, consumer leases, or

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1 consumer loans; or
 2 (3) fraudulent or unconscionable conduct in the collection of
 3 debts arising from consumer credit sales, consumer leases, or
 4 consumer loans.
 5 (b) In an action brought pursuant to this section the court may
 6 grant relief only if it finds:
 7 (1) that the respondent has made unconscionable agreements
 8 or has engaged or is likely to engage in a course of fraudulent
 9 or unconscionable conduct;
 10 (2) that the agreements or conduct of the respondent has
 11 caused or is likely to cause injury to consumers; and
 12 (3) that the respondent has been able to cause or will be able
 13 to cause the injury primarily because the transactions
 14 involved are credit transactions.
 15 (c) In applying this section, consideration shall be given to each
 16 of the following factors, among others:
 17 (1) belief by the creditor at the time consumer credit sales,
 18 consumer leases, or consumer loans are made that there was
 19 no reasonable probability of payment in full of the obligation
 20 by the debtor;
 21 (2) in the case of consumer credit sales or consumer leases,
 22 knowledge by the seller or lessor at the time of the sale or
 23 lease of the inability of the buyer or lessee to receive
 24 substantial benefits from the property or services sold or
 25 leased;
 26 (3) in the case of consumer credit sales or consumer leases,
 27 gross disparity between the price of the property or services
 28 sold or leased and the value of the property or services
 29 measured by the price at which similar property or services
 30 are readily obtainable in credit transactions by like buyers
 31 or lessees;
 32 (4) the fact that the creditor contracted for or received
 33 separate charges for insurance with respect to consumer
 34 credit sales or consumer loans with the effect of making the
 35 sales or loans, considered as a whole, unconscionable; and
 36 (5) the fact that the respondent has knowingly taken
 37 advantage of the inability of the debtor reasonably to protect
 38 the debtor's interests by reason of physical or mental
 39 infirmities, ignorance, illiteracy or inability to understand
 40 the language of the agreement, or similar factors.
 41 (d) In an action brought pursuant to this section, a charge or
 42 practice expressly permitted by this article is not in itself

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1 unconscionable.

2 **Sec. 13.** With respect to an action brought to enjoin violations
 3 of this article under section 11 of this chapter or unconscionable
 4 agreements or fraudulent or unconscionable conduct under section
 5 12 of this chapter, the department may apply to the court for
 6 appropriate temporary relief against a respondent, pending final
 7 determination of proceedings. If the court finds after a hearing
 8 held upon notice to the respondent that there is reasonable cause
 9 to believe that the respondent is engaging in or is likely to engage
 10 in conduct sought to be restrained, it may grant any temporary
 11 relief or restraining order it deems appropriate.

12 **Sec. 14. (a)** After demand, the department may bring a civil
 13 action against a creditor for making or collecting charges in excess
 14 of those permitted by this article. An action may relate to
 15 transactions with more than one debtor. If it is found that an excess
 16 charge has been made, the court shall order the respondent to
 17 refund to the debtor or debtors the amount of the excess charge. If
 18 a creditor has made an excess charge in deliberate violation of or
 19 in reckless disregard for this article, or if a creditor has refused to
 20 refund an excess charge within a reasonable time after demand by
 21 the debtor or the department, the court may also order the
 22 respondent to pay to the debtor or debtors a civil penalty in an
 23 amount determined by the court not in excess of the greater of
 24 either the amount of the credit service or loan finance charge or
 25 ten (10) times the amount of the charge. Refunds and penalties to
 26 which the debtor is entitled pursuant to this subsection may be set
 27 off against the debtor's obligation. If a debtor brings an action
 28 against a creditor to recover an excess charge or civil penalty, an
 29 action by the department to recover for the same excess charge or
 30 civil penalty shall be stayed while the debtor's action is pending
 31 and shall be dismissed if the debtor's action is dismissed with
 32 prejudice or results in a final judgment granting or denying the
 33 debtor's claim. With respect to excess charges arising from sales
 34 made pursuant to revolving charge accounts or from loans made
 35 pursuant to revolving loan accounts, no action pursuant to this
 36 subsection may be brought more than two (2) years after the time
 37 the excess charge was made. With respect to excess charges arising
 38 from other consumer credit sales or consumer loans, no action
 39 pursuant to this subsection may be brought more than one (1) year
 40 after the due date of the last scheduled payment of the agreement
 41 pursuant to which the charge was made. If the creditor establishes
 42 by a preponderance of evidence that a violation is unintentional or

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1 the result of a bona fide error, no liability to pay a penalty shall be
2 imposed under this subsection.

3 (b) The department may bring a civil action against a creditor
4 or a person acting in the creditor's behalf to recover a civil penalty
5 for willfully violating this article, and if the court finds that the
6 defendant has engaged in a course of repeated and willful
7 violations of this article, it may assess a civil penalty of no more
8 than five thousand dollars (\$5,000). No civil penalty pursuant to
9 this subsection may be imposed for violations of this article
10 occurring more than two (2) years before the action is brought or
11 for making unconscionable agreements or engaging in a course of
12 fraudulent or unconscionable conduct.

13 (c) If the department determines, after notice and opportunity
14 for the person to be heard, that a person has violated this article,
15 the department may, in addition to or instead of all other remedies
16 available under this section, impose upon the person a civil penalty
17 not greater than ten thousand dollars (\$10,000) per violation.

18 Sec. 15. The grant of powers to the department in this article
19 does not affect remedies available to debtors under this article or
20 under other principles of law or equity.

21 Sec. 16. The department may bring actions or proceedings in
22 a court in a county in which an act on which the action or
23 proceeding is based occurred or in a county in which respondent
24 resides or transacts business or in a county otherwise authorized
25 by rule or venue laws.

26 Sec. 17. (a) Subject to subsection (b), if the director determines
27 that a director, an officer, or a manager of a creditor:

28 (1) has committed a violation of a statute, a rule, a final cease
29 and desist order, a condition imposed in writing by the
30 director in connection with the grant of an application or
31 other request by the creditor, or a written agreement
32 between the creditor and the director or the department;

33 (2) has committed fraudulent or unconscionable conduct; or
34 (3) has been convicted of a felony under the laws of Indiana
35 or any other jurisdiction;

36 the director may issue and serve upon the person a notice of
37 charges and of the director's intent to issue an order removing the
38 person from the person's office or employment, an order
39 prohibiting participation by the person in the conduct of the affairs
40 of any creditor, or an order both removing the person and
41 prohibiting the person's participation.

42 (b) A violation, practice, or breach described in subsection (a)

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1 is subject to the authority of the director under subsections (a) and
2 (c) if the director finds any of the following:

3 (1) The interests of the creditor's customers could be
4 seriously prejudiced by reason of the violation, practice, or
5 breach.

6 (2) The violation, practice, or breach involves an act of
7 fraud, dishonesty, theft, breach of trust, money laundering,
8 or wrongful taking of property on the part of the officer,
9 director, or manager involved.

10 (3) The violation, practice, or breach demonstrates a willful
11 or continuing disregard by the officer, director, or manager
12 for state or federal law and regulations, and for the
13 consumer protections contained in this article.

14 (c) Subject to subsections (a) and (b), a person who has been
15 convicted of a felony under the laws of Indiana or any other
16 jurisdiction may not serve as an officer, a director, or a manager
17 of a creditor, or serve in any similar capacity, unless the person
18 obtains the written consent of the director.

19 (d) A creditor that willfully permits a person to serve the
20 creditor in violation of subsection (c) is subject to a civil penalty of
21 five hundred dollars (\$500) for each day the violation occurs.

22 (e) A creditor shall give the department written notice of the
23 resignation, discharge, or termination of an employee, independent
24 contractor, or agent against whom allegations were made that
25 accused the employee, independent contractor, or agent of:

26 (1) violating this article or other laws, regulations, rules, or
27 industry standards of conduct applicable to consumer credit
28 transactions; or

29 (2) fraud, dishonesty, theft, breach of trust, money
30 laundering, or the wrongful taking of property.

31 The creditor shall provide the department the notice required
32 under this subsection not later than thirty (30) days after the
33 effective date of the resignation, discharge, or termination.

34 Sec. 18. (a) A notice issued under section 17 of this chapter
35 must:

36 (1) be in writing;

37 (2) contain a statement of:

38 (A) the facts constituting the alleged violation, practice,
39 or breach;

40 (B) the facts alleged in support of the violation, practice,
41 or breach; and

42 (C) the director's intention to issue an order under

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- 1 section 20(a) of this chapter;
 2 (3) be delivered to the board of directors of the creditor;
 3 (4) be delivered to the officer, director, or manager to which
 4 the notice applies;
 5 (5) specify the procedures that must be followed to initiate a
 6 hearing to contest the alleged violation, practice, or breach;
 7 and
 8 (6) if the director suspends or prohibits the officer, director,
 9 or manager from participation in the affairs of the creditor
 10 as described under subsection (e), contain a statement of the
 11 suspension or prohibition.
- 12 (b) If a hearing is requested not later than ten (10) days after
 13 service of the notice described under subsection (a), the
 14 department shall hold a hearing concerning the alleged violation,
 15 practice, or breach. The hearing shall be held not later than
 16 forty-five (45) days after receipt of the request. The department,
 17 based on the evidence presented at the hearing, shall enter a final
 18 order in accordance with section 20 of this chapter.
- 19 (c) If no hearing is requested within the period of time
 20 specified in subsection (b), the director may proceed to issue a final
 21 order under section 20 of this chapter on the basis of the facts set
 22 forth in the notice described under subsection (a).
- 23 (d) An officer, a director, or a manager of a creditor who is
 24 removed from a position under a removal order under section 20
 25 of this chapter that has become final may not, without the approval
 26 of the director, participate in the conduct of the affairs of a licensee
 27 described under IC 37-2-4.
- 28 (e) The director may, for the protection of the creditor or the
 29 interests of the creditor's customers, suspend from office or
 30 prohibit from participation in the affairs of the creditor an officer,
 31 a director, or a manager of a creditor who is the subject of a
 32 written notice served by the director under section 17(a) of this
 33 chapter. A suspension or prohibition under this subsection becomes
 34 effective upon service of the notice under section 17(a) of this
 35 chapter. Unless stayed by a court in a proceeding authorized by
 36 subsection (f), the suspension or prohibition remains in effect
 37 pending completion of the proceedings related to the notice served
 38 under section 17(a) of this chapter and until the effective date of an
 39 order entered by the department under subsection (b) or the
 40 director under subsection (c). If the director suspends or prohibits
 41 participation of an officer, a director, or a manager under this
 42 subsection, copies of the notice shall also be served upon the

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1 creditor or affiliate of which the person is an officer, a director, or
2 a manager.

3 (f) Not more than fifteen (15) days after an officer, a director,
4 or a manager has been suspended from office or prohibited from
5 participation in the conduct of the affairs of the creditor or affiliate
6 under subsection (e), the officer, director, or manager may apply
7 to a court having jurisdiction for a stay of the suspension or
8 prohibition pending completion of the proceedings related to the
9 notice served under section 17(a) of this chapter. The court may
10 stay a suspension of prohibition of the officer, director, or
11 manager.

12 (g) The department shall maintain an official record of a
13 proceeding under this chapter.

14 Sec. 19. If the director enters into a consent to a final order
15 with a director, an officer, or a manager, the director is not
16 required to issue and serve a notice of charges upon the director,
17 officer, or manager under section 17 of this chapter. A consent
18 agreement may be negotiated and entered into before or after the
19 issuance of a notice of charges. The director shall provide a copy
20 of the consent order to the board of directors of the creditor.

21 Sec. 20. (a) Subject to section 18 of this chapter, if, after a
22 hearing described in section 18(b) of this chapter, the department
23 determines that a director, an officer, or a manager of a creditor
24 has committed an act described in section 17 of this chapter, the
25 department may issue a final order. If a hearing is not requested
26 within the time specified in section 18(b) of this chapter, the
27 director may issue a final order on the basis of the facts set forth
28 in the written notice served under section 18(a) of this chapter.

29 (b) Unless the director has entered into a consent agreement
30 described in section 19 of this chapter, a final order must include
31 separately stated findings of fact and conclusions of law for all
32 aspects of the order.

33 (c) In a final order under this section, the department or the
34 director, as appropriate, may order one (1) or more of the
35 following with respect to an officer, a director, or a manager of a
36 creditor:

37 (1) The removal of the officer, director, or manager from the
38 person's office, position, or employment.

39 (2) A prohibition against any participation by the officer,
40 director, or manager in the conduct of the affairs of any
41 creditor.

42 (3) If the subject of the order is an officer or a director of a

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1 creditor, and subject to section 22 of this chapter, the
 2 imposition of a civil penalty not to exceed fifteen thousand
 3 dollars (\$15,000) for each practice, violation, or act that:

4 (A) is described in section 17 of this chapter; and

5 (B) is found to exist by the department or the director.

6 (d) A final order shall be issued in writing not later than ninety
 7 (90) days after conclusion of a hearing held under section 18(b) of
 8 this chapter, unless this period is waived or extended with the
 9 written consent of all parties or for good cause shown.

10 (e) If the officer, director, or manager does not appear
 11 individually or by an authorized representative at a hearing held
 12 under section 18(b) of this chapter, the officer, director, or
 13 manager is considered to have consented to the issuance of a final
 14 order.

15 (f) The director may keep a final order confidential if the
 16 director determines that the immediate release of the order would
 17 endanger the stability of the creditor. However, after two (2) years
 18 following the date that an order is issued, a final order is no longer
 19 confidential.

20 (g) The remedies provided in this chapter are in addition to
 21 other remedies contained in this article.

22 Sec. 21. (a) A final order issued under section 20 of this
 23 chapter is effective the eleventh day after the date the order is
 24 served. However, a final order issued upon consent under section
 25 19 of this chapter is effective at the time specified in the order.

26 (b) A final order remains effective and enforceable as provided
 27 in the order.

28 (c) The department or a reviewing court may stay, modify, or
 29 vacate a final order.

30 Sec. 22. (a) The director or the department, as appropriate,
 31 shall consider the following factors in determining the amount of
 32 a civil penalty that should be assessed against a director or an
 33 officer under section 20(c)(3) of this chapter:

34 (1) The appropriateness of the civil penalty with respect to
 35 the financial resources and good faith of the individual
 36 charged.

37 (2) The gravity of the practice, violation, or breach.

38 (3) The history of previous practices, violations, or breaches.

39 (4) The economic benefit derived by the individual from the
 40 practice, violation, or breach.

41 (5) Other factors that justice requires.

42 (b) A creditor may not indemnify a director or an officer for

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1 a civil penalty imposed against the director or officer under this
2 section.

3 (c) Civil penalties shall be deposited in the financial
4 institutions fund established by IC 28-11-2-9.

5 Sec. 23. The director may enforce any of the following by
6 applying for appropriate relief to a court having jurisdiction:

7 (1) An order issued under section 19 or 20 of this chapter.

8 (2) A written agreement entered into by the director or the
9 department and a director, an officer, or a manager of a
10 creditor.

11 (3) Any condition imposed in writing by the director or the
12 department on a director, an officer, or a manager of a
13 creditor.

14 Sec. 24. (a) This section and sections 25 and 26 of this chapter
15 apply to a person, including a depository institution, but not
16 including a collection agency licensed under IC 25-11-1, engaged
17 in Indiana in any of the following:

18 (1) Making consumer credit sales, consumer leases, or
19 consumer loans.

20 (2) Taking assignments of rights against debtors that arise
21 from sales, leases, or loans by a person having an office or a
22 place of business in Indiana.

23 (3) Undertaking direct collection of payments from the
24 debtors or enforcement of rights against the debtors.

25 (4) Placing consumer credit insurance, receiving
26 commissions for consumer credit insurance, or acting as a
27 limited line credit insurance producer in the sale of
28 consumer credit insurance.

29 (5) Selling insurance or other benefits, the charges for which
30 are approved by the department as additional charges under
31 IC 37-2-3-5 or IC 37-2-4-5.

32 (b) This section and sections 25 and 26 of this chapter are not
33 applicable to a seller whose credit sales consist entirely of sales
34 made pursuant to a seller credit card issued by a person other than
35 the seller if the issuer of the card has complied with the provisions
36 of this section and sections 25 and 26 of this chapter.

37 (c) This section and sections 25 and 26 of this chapter apply to
38 a seller whose credit sales are made using credit cards that:

39 (1) are issued by a lender;

40 (2) are in the name of the seller; and

41 (3) can be used by the buyer or lessee only for purchases or
42 leases at locations of the named seller.

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1 **Sec. 25. (a) Persons that are subject to this section and sections**
 2 **24 and 26 of this chapter shall file notification with the department**
 3 **within thirty (30) days after commencing business in Indiana and**
 4 **thereafter on an annual basis, on the date set forth in subsection**
 5 **(b). The notification shall state the:**

- 6 (1) name of the person;
 7 (2) name in which business is transacted if different from
 8 subdivision (1);
 9 (3) address of principal office, which may be outside Indiana;
 10 and
 11 (4) address of all offices or retail stores, if any, in Indiana at
 12 which consumer credit sales, consumer leases, or consumer
 13 loans are made, or in the case of a person taking assignments
 14 of obligations, the offices or places of business within Indiana
 15 at which business is transacted.

16 **(b) A person required to be licensed under this article shall file**
 17 **the notification required by subsection (a) not later than December**
 18 **31 of each year. All other persons subject to this section shall file**
 19 **the notification required by subsection (a) not later than January**
 20 **31 of each year.**

21 **(c) Persons subject to sections 24 and 26 of this chapter and**
 22 **this section shall notify the department not later than thirty (30)**
 23 **days after the person:**

- 24 (1) has a change in name, address, or principals;
 25 (2) opens a new branch, closes an existing branch, or
 26 relocates an existing branch;
 27 (3) files for bankruptcy or reorganization;
 28 (4) is notified that the person is subject to revocation or
 29 suspension proceedings by a state or governmental authority
 30 with regard to the person's activities; or
 31 (5) has been convicted of a felony involving fraud, deceit, or
 32 misrepresentation under the laws of Indiana or any other
 33 jurisdiction.

34 **Sec. 26. (a) Persons required to file notification who are sellers,**
 35 **lessors, or lenders shall pay a fee in an amount and at intervals to**
 36 **be prescribed by the director under IC 28-11-3-5. The fee shall be**
 37 **a set amount for each one hundred thousand dollars (\$100,000), or**
 38 **part thereof, in excess of one hundred thousand dollars (\$100,000),**
 39 **of the original unpaid balances arising from consumer credit sales,**
 40 **consumer leases, and consumer loans made in Indiana and held**
 41 **either by the seller, lessor, or lender for more than thirty (30) days**
 42 **after the inception of the sale, lease, or loan giving rise to the**

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1 obligations, or by an assignee who has not filed notification. A
 2 refinancing of a sale, lease, or loan resulting in an increase in the
 3 amount of an obligation is a new sale, lease, or loan to the extent of
 4 the increase. In prescribing the fee, the department shall consider
 5 the costs and expense incurred or estimated to be incurred by the
 6 department in the administration of this article, including, but not
 7 limited to, the supervision, regulation, and examination of persons
 8 subject to the provisions of the article.

9 (b) Persons required to file notification who are assignees shall
 10 pay a fee as prescribed and fixed by the department under
 11 subsection (a) on the unpaid balances at the time of the assignment
 12 of obligations arising from consumer credit sales, consumer leases,
 13 and consumer loans made in Indiana taken by assignment during
 14 the preceding calendar year, but an assignee need not pay a fee
 15 with respect to an obligation on which the assignor or other person
 16 has already paid a fee.

17 (c) Persons required to file notification who are assignors shall
 18 pay a fee as prescribed by the department under subsection (a) on
 19 the unpaid balances at the time of the assignment of obligations
 20 arising from consumer credit sales, consumer leases, and consumer
 21 loans made in Indiana during the preceding calendar year unless
 22 the assignee has already paid the fees.

23 (d) Persons required to renew a license under IC 37-2-4-31
 24 may deduct the fees paid under IC 37-2-4-26(h)(2) and
 25 IC 37-2-4-26(h)(3), as applicable, from fees paid under this section.

26 (e) A person that is required to file notification under section
 27 25 of this chapter shall pay a fee at the same rate as prescribed and
 28 fixed by the department under subsection (a) on the original
 29 unpaid balances of all closed end credit obligations originating
 30 from the person's place of business during the time preceding the
 31 notification as specified under subsection (a), unless the fees for the
 32 obligations have been paid by another person.

33 Sec. 27. IC 37-2-4-23 and sections 24 through 26 of this chapter
 34 are not applicable to services performed by attorneys.

35 ARTICLE 3. SMALL LOANS

36 Chapter 1. General Provisions

37 Sec. 0.1. This article must be construed as a recodification of
 38 prior law. The enactment of this article by SEA 169-2026 does not
 39 affect the substantive operation and effect of the prior law.

40 Sec. 0.3. A contract entered into in accordance with
 41 IC 24-4.5-7 (before its repeal) is considered a contract entered into
 42 in accordance with this article.

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1 Sec. 0.5. Any document, website, or business communication
2 created in accordance with IC 24-4.5-7 (before its repeal) is
3 considered a document, website, or business communication
4 created in accordance with this article.

5 Sec. 0.7. (a) A reference in a statute or rule to a statute that is
6 repealed and replaced in the same or a different form in the
7 recodification act of the 2026 regular session of the general
8 assembly is treated after the effective date of the new provision as
9 a reference to the new provision.

10 (b) A citation reference in the recodification act of the 2026
11 regular session of the general assembly to another provision of the
12 recodification act of the 2026 regular session of the general
13 assembly is treated as including a reference to the provision of the
14 small loans law that is substantively equivalent to the provision of
15 the recodification act of the 2026 regular session of the general
16 assembly that is referred to by the citation reference.

17 Sec. 1. (a) Except as otherwise provided, all provisions of
18 IC 37-2 applying to consumer loans, including IC 37-2-4-25, apply
19 to small loans.

20 (b) Subject to section 4 of this chapter, a person may not
21 regularly engage in Indiana in any of the following actions unless
22 the department first issues to the person a license under this
23 article:

- 24 (1) The making of small loans.
- 25 (2) Taking assignments of small loans.
- 26 (3) Undertaking the direct collection of payments from or the
27 enforcement of rights against debtors arising from small
28 loans.

29 (c) Subject to section 4 of this chapter, a person that seeks
30 licensure under this article:

- 31 (1) shall apply to the department for a license in the form
32 and manner prescribed by the department; and
- 33 (2) is subject to the same licensure requirements and
34 procedures as an applicant for a license to make consumer
35 loans (other than mortgage transactions) under IC 37-2-4-23.

36 (d) A person that seeks to make, take assignments of, or
37 undertake the direct collection of payments from or the
38 enforcement of rights against debtors arising from both:

- 39 (1) small loans under this chapter; and
- 40 (2) consumer loans (other than mortgage transactions) that
41 are not small loans;

42 must obtain a separate license from the department for each type

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1 of loan, as described in IC 37-2-4-23(e).
 2 **Sec. 2. This article applies to:**
 3 (1) a lender;
 4 (2) a bank, savings association, credit union, or other state or
 5 federally regulated financial institution except those that are
 6 specifically exempt regarding limitations on interest rates
 7 and fees; or
 8 (3) a person, if the department determines that a transaction
 9 is:
 10 (A) in substance a disguised loan; or
 11 (B) the application of subterfuge for the purpose of
 12 avoiding this chapter.
 13 **Sec. 3. A loan that:**
 14 (1) does not qualify as a small loan under IC 37-3-2-10;
 15 (2) is for a term shorter than that specified in IC 37-3-3-5(a);
 16 or
 17 (3) is made in violation of section IC 37-3-3-2, IC 37-3-3-5,
 18 IC 37-3-3-6, IC 37-3-3-8, or IC 37-3-3-12;
 19 is subject to this article. The department may conform the loan
 20 finance charge for a loan described in this section to the limitations
 21 set forth in IC 37-2-4-35(b).
 22 **Sec. 4. Notwithstanding IC 37-2-2, for purposes of section 1(b)**
 23 **of this chapter, a person "regularly engages" in any of the**
 24 **activities described in section 1(b) of this chapter with respect to a**
 25 **small loan if the person:**
 26 (1) performed any of the activities described in section 1(b)
 27 of this chapter with respect to a small loan at least one (1)
 28 time in the preceding calendar year; or
 29 (2) performs or will perform any of the activities described
 30 in section 1(b) of this chapter with respect to a small loan at
 31 least one (1) time in the current calendar year if the person
 32 did not perform any of the activities described in section 1(b)
 33 of this chapter with respect to a small loan at least one (1)
 34 time in the preceding calendar year.
 35 **Chapter 2. Definitions**
 36 **Sec. 1. Except as otherwise provided, the definitions set forth**
 37 **in IC 37-2-2 apply throughout this article.**
 38 **Sec. 2. The definitions set forth in this chapter apply**
 39 **throughout this article.**
 40 **Sec. 3. "Check" has the meaning set forth in IC 26-1-3.1-104.**
 41 **Sec. 4. "Consecutive small loan" means a new small loan**
 42 **agreement that the lender enters with the same borrower not later**

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1 than seven (7) calendar days after a previous small loan made to
2 that borrower is paid in full.

3 **Sec. 5. "Lender"** means a person that acquires and retains a
4 license issued by the department of financial institutions under this
5 chapter to engage in small loans.

6 **Sec. 6. "Monthly gross income"** means the income received by
7 the borrower in the thirty (30) day period preceding the
8 borrower's application for a small loan under this chapter and
9 exclusive of any income other than regular gross pay received, or
10 as otherwise determined by the department.

11 **Sec. 7. "Paid in full"** means the termination of a small loan
12 through:

13 (1) the presentment of the borrower's check for payment by
14 the drawee bank or the exercise by the lender of an
15 authorization to debit an account of the borrower; or

16 (2) the return of a check to a borrower who redeems it for
17 consideration.

18 **Sec. 8. "Principal"** means the total of:

19 (1) the net amount paid to, receivable by, or paid or payable
20 from the account of the borrower; and

21 (2) to the extent that the payment is deferred, the additional
22 charges permitted by this chapter that are not included in
23 subdivision (1).

24 **Sec. 9. "Renewal"** refers to a small loan that takes the place of
25 an existing small loan by:

26 (1) renewing;

27 (2) repaying;

28 (3) refinancing; or

29 (4) consolidating;

30 a small loan with the proceeds of another small loan made to the
31 same borrower by a lender.

32 **Sec. 10. (a) "Small loan"** means a loan:

33 (1) with a principal loan amount that is at least fifty dollars
34 (\$50) and not more than five hundred fifty dollars (\$550);
35 and

36 (2) in which the lender holds the borrower's check for a
37 specific period, or receives the borrower's written
38 authorization to debit the borrower's account (other than as
39 a result of default) under an agreement, either express or
40 implied, for a specific period, before the lender:

41 (A) offers the check for deposit or presentment; or

42 (B) exercises the authorization to debit the borrower's

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1 account.

2 (b) The amount of five hundred fifty dollars (\$550) in
3 subsection (a)(1) is subject to change under the provisions on
4 adjustment of dollar amounts set forth in IC 37-2-1-5. However,
5 notwithstanding IC 37-2-1-5(a), the Reference Base Index to be
6 used under this subsection is the Index for October 2006.

7 Chapter 3. Regulation of Small Loans

8 Sec. 1. A lender is not considered a financial institution, except
9 for purposes of IC 28-1.

10 Sec. 2. (a) Finance charges on the first two hundred fifty
11 dollars (\$250) of a small loan are limited to fifteen percent (15%)
12 of the principal.

13 (b) Finance charges on the amount of a small loan greater than
14 two hundred fifty dollars (\$250) and less than or equal to four
15 hundred dollars (\$400) are limited to thirteen percent (13%) of the
16 amount over two hundred fifty dollars (\$250) and less than or
17 equal to four hundred dollars (\$400).

18 (c) Finance charges on the amount of the small loan greater
19 than four hundred dollars (\$400) and less than or equal to five
20 hundred fifty dollars (\$550) are limited to ten percent (10%) of the
21 amount over four hundred dollars (\$400) and less than or equal to
22 five hundred fifty dollars (\$550).

23 (d) The amount of five hundred fifty dollars (\$550) in
24 subsection (c) is subject to change under the provisions on
25 adjustment of dollar amounts set forth in IC 37-2-1-5. However,
26 notwithstanding IC 37-2-1-5(a), the Reference Base Index to be
27 used under this subsection is the Index for October 2006.

28 Sec. 3. (a) Notwithstanding any other law, the only fee that
29 may be contracted for and received by the lender or an assignee on
30 a small loan is a charge, not to exceed twenty-five dollars (\$25), for
31 each:

32 (1) return by a bank or other depository institution of a
33 dishonored:

- 34 (A) check;
35 (B) electronic funds transfer;
36 (C) negotiable order of withdrawal; or
37 (D) share draft;

38 issued by the borrower; or

39 (2) time an authorization to debit the borrower's account is
40 dishonored.

41 This additional charge may be assessed one (1) time regardless of
42 how many times a check or an authorization to debit the

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1 borrower's account may be submitted by the lender and
2 dishonored.

3 (b) A lender may:

4 (1) present a borrower's check for payment; or

5 (2) exercise a borrower's authorization to debit the
6 borrower's account;

7 not more than three (3) times.

8 Sec. 4. (a) For purposes of this section, the lender shall disclose
9 to the borrower to whom credit is extended with respect to a small
10 loan the information required by the Consumer Credit Protection
11 Act (15 U.S.C. 1601 et seq.).

12 (b) In addition to the requirements of subsection (a), the lender
13 must conspicuously display in bold type a notice to the public both
14 in the lending area of each business location and in the loan
15 documents the following statement:

16 **"WARNING: A small loan is not intended to meet long term**
17 **financial needs. A small loan should be used only to meet**
18 **short term cash needs. The cost of your small loan may be**
19 **higher than loans offered by other lending institutions. Small**
20 **loans are regulated by the State of Indiana Department of**
21 **Financial Institutions.**

22 **A borrower may rescind a small loan without cost by paying**
23 **the cash amount of the principal of the small loan to the**
24 **lender not later than the end of the business day immediately**
25 **following the day on which the borrower receives the loan**
26 **proceeds."**

27 (c) The statement required in subsection (b) must be in:

28 (1) 14 point bold face type in the loan documents; and

29 (2) not less than one (1) inch bold print in the lending area of
30 the business location.

31 (d) When a borrower enters into a small loan, the lender shall
32 provide the borrower with a pamphlet approved by the
33 department that describes:

34 (1) the availability of debt management and credit counseling
35 services; and

36 (2) the borrower's rights and responsibilities in the
37 transaction.

38 Sec. 5. (a) A small loan may not be made for a term of less than
39 fourteen (14) days.

40 (b) If five (5) consecutive small loans have been made to a
41 borrower after the borrower's initial small loan, another small
42 loan may not be made to that borrower within seven (7) days after

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1 the fifth consecutive small loan is paid in full. After the borrower's
2 fifth consecutive small loan, the balance must be paid in full.

3 (c) Subject to subsection (d), whenever a borrower has entered
4 into an initial small loan followed by three (3) consecutive small
5 loans, the lender shall offer the borrower the option to repay:

- 6 (1) the third consecutive small loan; and
7 (2) subject to subsection (b), any small loan entered into after
8 the third consecutive small loan;

9 under an extended payment plan. At the time of execution of a
10 small loan described in subdivision (1) or (2), the lender shall
11 disclose to the borrower the extended payment plan option by
12 providing the borrower a written description of the extended
13 payment plan option in a separate disclosure document approved
14 by the director.

15 (d) A lender shall offer an extended payment plan under
16 subsection (c) under the following terms and conditions:

17 (1) A borrower shall be permitted to request an extended
18 payment plan at any time during the term of a third or
19 subsequent consecutive small loan if:

- 20 (A) the borrower has not defaulted on the outstanding
21 small loan; and
22 (B) the rescission period under section 6(f) of this
23 chapter has expired.

24 (2) An extended payment plan must allow the outstanding
25 small loan to be paid in at least four (4) equal installments
26 over a period of not less than sixty (60) days.

27 (3) An agreement for an extended payment plan may not
28 require a borrower to pay any amount before the original
29 maturity date of the outstanding small loan.

30 (4) The lender may not assess any fee or charge on a
31 borrower for entering into an extended payment plan.

32 (5) An agreement for an extended payment plan must be in
33 writing and acknowledged by both the borrower and the
34 lender.

35 (6) A borrower may not enter into another small loan
36 transaction while engaged in an extended payment plan.

37 (7) A lender shall not:

38 (A) compel, advise, solicit, or coerce a borrower to not
39 exercise the borrower's right to request an extended
40 payment plan;

41 (B) discourage a borrower from exercising the
42 borrower's right to request an extended payment plan;

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- 1 or
 2 (C) take any other action to influence a borrower's right
 3 to request an extended payment plan.
 4 (e) An agreement for an extended payment plan under
 5 subsection (c):
 6 (1) shall be considered an extension of the outstanding small
 7 loan; and
 8 (2) may not be considered a new loan.
 9 Sec. 6. (a) A lender is prohibited from making a small loan to
 10 a borrower if the total of:
 11 (1) the principal amount and finance charges of the small
 12 loan to be issued; plus
 13 (2) any other small loan balances that the borrower has
 14 outstanding with any lender;
 15 exceeds twenty percent (20%) of the borrower's monthly gross
 16 income.
 17 (b) A small loan may be secured by only one (1) check or
 18 authorization to debit the borrower's account per small loan. The
 19 check or electronic debit may not exceed the amount advanced to
 20 or on behalf of the borrower plus loan finance charges contracted
 21 for and permitted.
 22 (c) A borrower may make partial payments in any amount on
 23 the small loan without charge at any time before the due date of the
 24 small loan.
 25 (d) After any payment is made on a small loan, whether the
 26 payment is made in part or in full before, on, or after the due date
 27 of the small loan, the lender shall give a signed and dated receipt
 28 to the borrower making a payment showing the amount paid and
 29 the balance due on the small loan.
 30 (e) The lender shall provide to each borrower a copy of the
 31 required loan documents before the disbursement of the loan
 32 proceeds.
 33 (f) A borrower may rescind a small loan without cost by
 34 paying the cash amount of the principal of the small loan to the
 35 lender not later than the end of the business day immediately
 36 following the day on which the borrower receives the proceeds.
 37 (g) A lender shall not enter into a renewal with a borrower. If
 38 a loan is paid in full, a subsequent loan is not a renewal.
 39 Sec. 7. A small loan may not be secured by personal property
 40 other than a check or electronic debit.
 41 Sec. 8. (a) As used in this section, "commercially reasonable
 42 method of verification" means a private consumer credit reporting

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1 service that the department determines to be capable of providing
 2 a lender with adequate verification information necessary to
 3 ensure compliance with subsection (d).

4 (b) With respect to a small loan, no lender may permit a
 5 person to become obligated under more than one (1) loan
 6 agreement with the lender at any time.

7 (c) A lender shall not make a small loan that, when combined
 8 with the outstanding balance on another outstanding small loan
 9 owed to another lender, exceeds a total of five hundred fifty dollars
 10 (\$550), excluding finance charges. A lender shall not make a small
 11 loan to a borrower who has two (2) or more small loans
 12 outstanding, regardless of the total value of the small loans. The
 13 amount of five hundred fifty dollars (\$550) in this subsection is
 14 subject to change under the provisions on adjustment of dollar
 15 amounts (IC 37-2-1-5). However, notwithstanding IC 37-2-1-5(a),
 16 the Reference Base Index to be used under this subsection is the
 17 Index for October 2006.

18 (d) A lender complies with subsection (c) if the lender
 19 independently verifies the total number of outstanding small loans
 20 and the total outstanding balance of those small loans for a
 21 customer through a commercially reasonable method of
 22 verification. A lender's method of verifying whether a borrower
 23 has any outstanding small loans and the total outstanding balance
 24 of any loans will be considered commercially reasonable if the
 25 method includes a manual investigation or an electronic query of:

26 (1) the lender's own records, including both records
 27 maintained at the location where the borrower is applying
 28 for the transaction and records maintained at other locations
 29 within the state that are owned and operated by the lender;
 30 and

31 (2) an available third party data base provided by a private
 32 consumer reporting service, subject to the identification
 33 verification requirements set forth in subsection (l).

34 (e) The department shall monitor the effectiveness of private
 35 consumer credit reporting services in providing the verification
 36 information required under subsection (d). If the department
 37 determines that a commercially reasonable method of verification
 38 is available, the department shall:

39 (1) provide reasonable notice to all lenders identifying the
 40 commercially reasonable method of verification that is
 41 available; and

42 (2) require each lender to use, consistent with the policies of

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- 1 the department, the identified commercially reasonable
 2 method of verification as a means of complying with
 3 subsection (d).
- 4 (f) If a borrower presents evidence to a lender that a loan has
 5 been discharged in bankruptcy, the lender shall cause the record
 6 of the borrower's loan to be updated in the data base described in
 7 subsection (d)(2) to reflect the bankruptcy discharge.
- 8 (g) A lender shall cause the record of a borrower's loan to be
 9 updated in the data base described in subsection (d)(2) to reflect:
 10 (1) presentment of the borrower's check for payment; or
 11 (2) exercise of the borrower's authorization to debit the
 12 borrower's account.
- 13 If a check is returned or an authorization is dishonored because of
 14 insufficient funds in the borrower's account, the lender shall
 15 reenter the record of the loan in the data base.
- 16 (h) A lender shall update information in a data base described
 17 in subsection (d)(2) to reflect partial payments made on an
 18 outstanding loan, the record of which is maintained in the data
 19 base.
- 20 (i) If a lender ceases doing business in Indiana, the director
 21 may require the operator of the data base described in subsection
 22 (d)(2) to remove records of the lender's loans from the operator's
 23 data base.
- 24 (j) The director may impose a civil penalty not to exceed one
 25 hundred dollars (\$100) for each violation of:
 26 (1) this section; or
 27 (2) any rule or policy adopted by the director to implement
 28 this section.
- 29 (k) The excess amount of loan finance charge provided for in
 30 agreements in violation of this section is an excess charge for
 31 purposes of the provisions concerning effect of violations on rights
 32 of parties (IC 37-2-6-9) and the provisions concerning civil actions
 33 by the department (IC 37-2-7-14).
- 34 (l) If a borrower provides the borrower's Social Security
 35 number to a lender in connection with any transaction or proposed
 36 transaction under this chapter, the lender shall:
 37 (1) maintain procedures to verify that the Social Security
 38 number provided is legitimate and belongs to the borrower;
 39 and
 40 (2) retain copies of any documents used to verify the
 41 borrower's Social Security number. Documentation under
 42 this subdivision may be in electronic form and the numbers

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1 may be truncated.
 2 **If a borrower does not have a Social Security number, the lender**
 3 **may require and accept another valid form of government issued**
 4 **identification, subject to the requirements of subdivisions (1) and**
 5 **(2) with respect to the government issued identification accepted.**

6 **Sec. 9. (a) This section does not apply to a business that is**
 7 **licensed by the department for a purpose other than consumer**
 8 **loans.**

9 **(b) A licensee may carry on other business at a location where**
 10 **the licensee makes small loans unless the licensee carries on other**
 11 **business for the purpose of evasion or violation of this article.**

12 **Sec. 10. (a) An agreement with respect to a small loan may not**
 13 **provide for charges as a result of default by the borrower other**
 14 **than those specifically authorized by this chapter. A provision in a**
 15 **small loan agreement in violation of this section is unenforceable.**

16 **(b) A lender or an assignee of a small loan may seek only the**
 17 **following remedies upon default by a borrower:**

- 18 **(1) Recovery of:**
 19 **(A) the contracted principal amount of the loan; and**
 20 **(B) the loan finance charge.**
 21 **(2) If contracted for under section 3 of this chapter,**
 22 **collection of a fee for:**
 23 **(A) a returned check, negotiable order of withdrawal, or**
 24 **share draft; or**
 25 **(B) a dishonored authorization to debit the borrower's**
 26 **account;**
 27 **because of insufficient funds in the borrower's account.**
 28 **(3) Collection of postjudgment interest, if awarded by a**
 29 **court.**

30 **(4) Collection of court costs, if awarded by a court.**
 31 **(c) A lender or an assignee of a small loan may not seek any of**
 32 **the following damages or remedies upon default by a borrower:**

- 33 **(1) Payment of the lender's attorney's fees.**
 34 **(2) Treble damages.**
 35 **(3) Prejudgment interest.**
 36 **(4) Damages allowed for dishonored checks under any**
 37 **statute other than this chapter.**
 38 **(5) Any damages or remedies not set forth in subsection (b).**

39 **(d) A contractual agreement in a small loan transaction must**
 40 **include a notice of the following in 14 point bold type:**

- 41 **(1) The remedies available to a lender or an assignee under**
 42 **subsection (b).**

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1 (2) The remedies and damages that a lender or an assignee
2 is prohibited from seeking in a small loan transaction under
3 subsection (c).

4 **Sec. 11. (a) This section applies to licensees and unlicensed**
5 **persons.**

6 **(b) A person who violates this chapter:**
7 **(1) is subject to the remedies provided in IC 37-2-6-9;**
8 **(2) commits a deceptive act under IC 24-5-0.5 and is subject**
9 **to the penalties listed in IC 24-5-0.5;**
10 **(3) has no right to collect, receive, or retain any principal,**
11 **interest, or other charges from a small loan; however, this**
12 **subdivision does not apply if the violation is the result of an**
13 **accident or bona fide error of computation; and**
14 **(4) is liable to the borrower for actual damages, statutory**
15 **damages of two thousand dollars (\$2,000) per violation,**
16 **costs, and attorney's fees; however, this subdivision does not**
17 **apply if the violation is the result of an accident or bona fide**
18 **error of computation.**

19 **The remedies described in this subsection are in addition to all**
20 **other remedies set forth in IC 37-2 and this article.**

21 **(c) The department may sue:**
22 **(1) to enjoin any conduct that constitutes or will constitute a**
23 **violation of this chapter; and**
24 **(2) for other equitable relief.**

25 **(d) The remedies provided in this section are cumulative but**
26 **are not intended to be the exclusive remedies available to a**
27 **borrower. A borrower is not required to exhaust any**
28 **administrative remedies under this section or any other applicable**
29 **law.**

30 **Sec. 12. A lender making small loans, or an assignee of a small**
31 **loan, shall not commit nor cause to be committed any of the**
32 **following acts:**

33 **(1) Threatening to use or using the criminal process in any**
34 **state to collect on a small loan.**
35 **(2) Threatening to take action against a borrower that is**
36 **prohibited by this chapter.**
37 **(3) Making a misleading or deceptive statement regarding a**
38 **small loan or a consequence of taking a small loan.**
39 **(4) Contracting for or collecting attorney's fees on small**
40 **loans made under this chapter.**
41 **(5) Altering the date or any other information on a check or**
42 **an authorization to debit the borrower's account held as**

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- 1 security.
- 2 (6) Using a device or agreement that the department
- 3 determines would have the effect of charging or collecting
- 4 more fees, charges, or interest than allowed by this chapter,
- 5 including, but not limited to:
- 6 (A) entering a different type of transaction with the
- 7 borrower;
- 8 (B) entering into a sales/leaseback arrangement;
- 9 (C) catalog sales;
- 10 (D) entering into transactions in which a customer
- 11 receives a purported cash rebate that is advanced by
- 12 someone offering Internet content services, or some
- 13 other product or service, when the cash rebate does not
- 14 represent a discount or an adjustment of the purchase
- 15 price for the product or service; or
- 16 (E) entering any other transaction with the borrower
- 17 that is designed to evade the applicability of this
- 18 chapter.
- 19 (7) Engaging in unfair, deceptive, or fraudulent practices in
- 20 the making or collecting of a small loan.
- 21 (8) Charging to cash a check representing the proceeds of a
- 22 small loan.
- 23 (9) Except as otherwise provided in this chapter:
- 24 (A) accepting the proceeds of a new small loan as
- 25 payment of an existing small loan provided by the same
- 26 lender; or
- 27 (B) renewing, refinancing, or consolidating a small loan
- 28 with the proceeds of another small loan made by the
- 29 same lender.
- 30 (10) Including any of the following provisions in a loan
- 31 document:
- 32 (A) A hold harmless clause.
- 33 (B) A confession of judgment clause.
- 34 (C) A mandatory arbitration clause, unless the terms
- 35 and conditions of the arbitration have been approved by
- 36 the director of the department.
- 37 (D) An assignment of or order for payment of wages or
- 38 other compensation for services.
- 39 (E) A provision in which the borrower agrees not to
- 40 assert a claim or defense arising out of contract.
- 41 (F) A waiver of any provision of this chapter.
- 42 (11) Selling insurance of any kind in connection with the

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- 1 making or collecting of a small loan.
- 2 (12) Entering into a renewal with a borrower.
- 3 Sec. 13. Finance charges made in compliance with this chapter
4 are exempt from IC 37-2-4-35 and IC 35-45-7.
- 5 Sec. 14. Upon the receipt of a check from a borrower for a
6 small loan, unless the check is marked as void at the time of
7 acceptance by the lender, the lender shall immediately stamp the
8 back of the check with an endorsement that states:
9 "This check is being negotiated as part of a small loan under
10 IC 37-3, and any holder of this check takes it subject to the
11 claims and defenses of the maker."
12 Sec. 15. (a) A person engaged in making small loans under this
13 chapter shall post a bond to the department in the amount of fifty
14 thousand dollars (\$50,000) for each location where small loans will
15 be made, up to a maximum bond in an amount determined by the
16 director.
- 17 (b) A surety bond issued under this section must:
- 18 (1) provide coverage for a lender engaged in making small
19 loans under this chapter in an amount as prescribed in
20 subsection (a);
- 21 (2) be in a form prescribed by the director;
- 22 (3) be in effect during the term of the lender's license under
23 this chapter;
- 24 (4) subject to subsection (c), remain in effect during the two
25 (2) years after the lender's license under this chapter is
26 surrendered or terminated;
- 27 (5) be payable to the department for the benefit of:
- 28 (A) the state; and
- 29 (B) individuals who reside in Indiana when they agree to
30 receive financial services from the lender;
- 31 (6) be issued by a bonding, surety, or insurance company
32 authorized to do business in Indiana and rated at least "A-"
33 by at least one (1) nationally recognized investment rating
34 service; and
- 35 (7) have payment conditioned upon the lender's or any of the
36 lender's employees' or agents' noncompliance with or
37 violation of this article or other applicable federal or state
38 laws or regulations.
- 39 (c) The director may adopt rules or guidance documents with
40 respect to the requirements for a surety bond as necessary to
41 accomplish the purposes of this chapter. Upon written request
42 from a lender, the director may, at the discretion of the director,

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1 waive or shorten the two (2) year period set forth in subsection
2 (b)(4) during which a surety bond required by this section must
3 remain in effect after the lender's license under this chapter is
4 surrendered or terminated.

5 (d) If the principal amount of a surety bond required under
6 this section is reduced by payment of a claim or judgment, the
7 lender for whom the bond is issued shall immediately notify the
8 director of the reduction and, not later than thirty (30) days after
9 notice by the director, file a new or an additional surety bond in an
10 amount set by the director. The amount of the new or additional
11 bond set by the director must be at least the amount of the bond
12 before payment of the claim or judgment.

13 (e) If for any reason a surety terminates a bond issued under
14 this section, the lender shall immediately notify the department and
15 file a new surety bond in an amount as prescribed in subsection (a).

16 (f) Cancellation of a surety bond issued under this section does
17 not affect any liability incurred or accrued during the period when
18 the surety bond was in effect.

19 (g) The director may obtain satisfaction from a surety bond
20 issued under this section if the director incurs expenses, issues a
21 final order, or recovers a final judgment under this chapter.

22 (h) Notices required under this section must be in writing and
23 delivered by certified mail, return receipt requested and postage
24 prepaid, or by overnight delivery using a nationally recognized
25 carrier.

26 Sec. 16. The department may adopt rules under IC 4-22-2 to
27 implement this article.

28 **ARTICLE 4. MORTGAGE RESCUE PROTECTION FRAUD**
29 **Chapter 1. Application**

30 Sec. 0.1. This article must be construed as a recodification of
31 prior law. The enactment of this article by SEA 169-2026 does not
32 affect the substantive operation and effect of the prior law.

33 Sec. 0.3. A contract entered into in accordance with IC 24-5.5
34 (before its repeal) is considered a contract entered into in
35 accordance with this article.

36 Sec. 0.5. Any document, website, or business communication
37 created in accordance with IC 24-5.5 (before its repeal) is
38 considered a document, website, or business communication
39 created in accordance with this article.

40 Sec. 0.7. (a) A reference in a statute or rule to a statute that is
41 repealed and replaced in the same or a different form in the
42 recodification act of the 2026 regular session of the general

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1 assembly is treated after the effective date of the new provision as
 2 a reference to the new provision.

3 (b) A citation reference in the recodification act of the 2026
 4 regular session of the general assembly to another provision of the
 5 recodification act of the 2026 regular session of the general
 6 assembly is treated as including a reference to the provision of the
 7 law concerning mortgage rescue protection fraud that is
 8 substantively equivalent to the provision of the recodification act
 9 of the 2026 regular session of the general assembly that is referred
 10 to by the citation reference.

11 **Sec.] 1. This article does not apply to the following:**

12 (1) A person organized or chartered under the laws of this
 13 state, any other state, or the United States that relate to a
 14 bank, a trust company, a savings association, a savings bank,
 15 a credit union, or an industrial loan and investment
 16 company.

17 (2) The Federal National Mortgage Association, the Federal
 18 Home Loan Mortgage Corporation, or a Federal Home Loan
 19 Bank.

20 (3) A department or agency of the United States or of
 21 Indiana.

22 (4) A person that is servicing or enforcing a loan that it owns.

23 (5) A person that is servicing a loan:

24 (A) for a person described in subdivisions (1) through
 25 (4); or

26 (B) insured by the Department of Housing and Urban
 27 Development or guaranteed by the Veterans
 28 Administration.

29 (6) An attorney licensed to practice law in Indiana who is
 30 representing a mortgagor.

31 **Chapter 2. Definitions**

32 **Sec. 1.** The definitions in this chapter apply throughout this
 33 article.

34 **Sec. 2.** "Foreclosure consultant" means a person who, directly
 35 or indirectly, makes a solicitation, a representation, or an offer to
 36 a homeowner to perform, with or without compensation, any
 37 service that the person represents will:

38 (1) prevent or postpone the initiation of a foreclosure
 39 proceeding, or reverse the effect of a foreclosure proceeding;

40 (2) allow the homeowner to become a lessee or renter in the
 41 homeowner's residence during or after a foreclosure
 42 proceeding; or

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1 (3) allow the homeowner to have an option to repurchase the
2 homeowner's residence after a foreclosure proceeding.

3 Sec. 3. "Foreclosure purchaser" means a person who
4 purchases real property in a foreclosure proceeding.

5 Sec. 4. "Foreclosure reconveyance" means a transaction
6 involving:

7 (1) the transfer of interest in real property by a homeowner
8 to a person during or incident to a proposed foreclosure
9 proceeding, either by:

10 (A) transfer of interest from the homeowner to the
11 person; or

12 (B) creation of a mortgage, trust, or other lien or
13 encumbrance during the foreclosure process;

14 that allows the person to obtain legal or equitable title to all
15 or part of the real property; and

16 (2) the subsequent conveyance, or promise of subsequent
17 conveyance, of interest back to the homeowner by the person
18 or the person's agent that allows the homeowner to possess
19 the real property following the completion of the foreclosure
20 proceeding.

21 Sec. 5. "Formal settlement" means a face-to-face meeting with
22 a homeowner to complete final documents incident to the:

23 (1) sale or transfer of real property; or

24 (2) creation of a mortgage or equitable interest in real
25 property;

26 conducted by a person who is not employed by or an affiliate of the
27 foreclosure purchaser.

28 Sec. 6. "Homeowner" means a person who holds record title
29 to residential real property as of the date on which:

30 (1) a contract with a foreclosure consultant; or

31 (2) a foreclosure reconveyance agreement;

32 with respect to the residential real property is entered into.

33 Chapter 3. Rescission of Contracts With Foreclosure
34 Consultants and Foreclosure Reconveyance Agreements

35 Sec. 1. In addition to any other right under law to cancel or
36 rescind a contract, a homeowner may rescind a:

37 (1) contract with a foreclosure consultant at any time before
38 midnight of the seventh business day after the date the
39 contract is signed; and

40 (2) foreclosure reconveyance agreement at any time before
41 midnight of the seventh business day after the homeowner's
42 transfer of the interest in the real property that is the subject



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1 of the agreement, as described in IC 37-4-2-4(1).

2 **Sec. 2. A homeowner effectively rescinds a contract with a**
 3 **foreclosure consultant if the homeowner gives written notice of a**
 4 **rescission to the foreclosure consultant by one (1) of the following:**

5 (1) Mailing the rescission to the address specified in the
 6 contract.

7 (2) Sending the rescission through any facsimile or electronic
 8 mail address identified in the contract or other material
 9 provided to the homeowner by the foreclosure consultant.

10 **Sec. 3. (a) If a notice of rescission under this chapter is sent by**
 11 **mail, the rescission is effective three (3) days after the notice is**
 12 **deposited in the United States mail, properly addressed, with**
 13 **postage prepaid.**

14 (b) A homeowner is not required to give notice of rescission in
 15 the form required under the contract if the form under the
 16 contract is inconsistent with the requirements under this chapter.

17 **Sec. 4. (a) If a homeowner rescinds a contract with a**
 18 **foreclosure consultant or a foreclosure reconveyance agreement,**
 19 **the homeowner shall, not later than thirty (30) days after the date**
 20 **of rescission, repay any amounts paid or advanced by:**

21 (1) the foreclosure consultant or the foreclosure consultant's
 22 agent under the terms of the foreclosure consulting contract;
 23 or

24 (2) a person under a foreclosure reconveyance agreement.

25 (b) A rescission by a homeowner under this chapter is void if
 26 the payments required under this section are not made within the
 27 time set forth in subsection (a).

28 **Sec. 5. If a homeowner rescinds a contract with a foreclosure**
 29 **consultant, not less than ten (10) days following the effective date**
 30 **of the rescission, the consultant shall return to the homeowner any**
 31 **payments made by the homeowner, less any amounts for actual**
 32 **services rendered.**

33 **Chapter 4. Limitations on Foreclosure Consultants and**
 34 **Foreclosure Reconveyances**

35 **Sec. 1. For purposes of this chapter, there is a rebuttable**
 36 **presumption that:**

37 (1) a homeowner has a reasonable ability to pay for a
 38 subsequent reconveyance of real property if the
 39 homeowner's payments for primary housing expenses and
 40 regular principal and interest payments on other personal
 41 debt, on a monthly basis, do not exceed sixty percent (60%)
 42 of the homeowner's monthly gross income; and

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1 (2) the foreclosure purchaser has not verified reasonable
2 payment ability if the foreclosure purchaser has not obtained
3 documents other than a statement by the homeowner of
4 assets, liability, and income.

5 Sec. 2. In addition to any prohibitions that apply under
6 IC 24-5-15-1 through IC 24-5-15-8, a foreclosure consultant may
7 not:

8 (1) enter into or attempt to enter into a foreclosure
9 consultant contract with a homeowner unless the foreclosure
10 consultant first provides the homeowner written notice of the
11 homeowner's rights under this article;

12 (2) demand or receive compensation until after the
13 foreclosure consultant has fully performed all services the
14 foreclosure consultant contracted to perform or represented
15 that the foreclosure consultant would perform, unless the
16 foreclosure consultant complies with the security
17 requirements under IC 24-5-15-8;

18 (3) demand or receive a fee, interest, or any other
19 compensation that exceeds eight percent (8%) per year of the
20 amount of any loan that the foreclosure consultant makes to
21 the homeowner;

22 (4) take a wage assignment, a lien of any type on real or
23 personal property, or any other security to secure the
24 payment of compensation;

25 (5) receive consideration from a third party in connection
26 with foreclosure consulting services provided to a
27 homeowner unless the consideration is first fully disclosed in
28 writing to the homeowner;

29 (6) acquire any interest, directly or indirectly, in residential
30 real property in foreclosure from a homeowner with whom
31 the foreclosure consultant has contracted;

32 (7) except to inspect documents as provided by law, take any
33 power of attorney from a homeowner for any purpose;

34 (8) execute any contract or agreement with a homeowner or
35 receive money or other valuable consideration from a
36 homeowner without providing the homeowner with the
37 written statement required by IC 24-5-15-6; or

38 (9) fail to provide a homeowner with a written contract that
39 includes the notice of cancellation required by IC 24-5-15-7.

40 Sec. 3. A foreclosure purchaser may not enter into or attempt
41 to enter into a foreclosure reconveyance agreement with a
42 homeowner unless the:

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- 1 **(1) foreclosure purchaser verifies and demonstrates that the**
- 2 **homeowner has or will have a reasonable ability to:**
- 3 **(A) pay for the subsequent reconveyance of the property**
- 4 **back to the homeowner on completion of the terms of**
- 5 **the foreclosure conveyance; or**
- 6 **(B) if the foreclosure conveyance provides for a lease**
- 7 **with an option to repurchase the real property, make the**
- 8 **lease payment and repurchase the real property within**
- 9 **the period of the option to repurchase;**
- 10 **(2) foreclosure purchaser provides the homeowner written**
- 11 **notice of the homeowner's rights under this article;**
- 12 **(3) foreclosure purchaser and the homeowner complete a**
- 13 **formal settlement before any transfer of interest in the**
- 14 **affected property; and**
- 15 **(4) foreclosure purchaser complies with the security**
- 16 **requirements under IC 24-5-15-8.**

17 **Sec. 4. A foreclosure purchaser shall:**

- 18 **(1) ensure that title to real property has been reconveyed to**
- 19 **the homeowner in a timely manner if the terms of a**
- 20 **foreclosure reconveyance agreement require a**
- 21 **reconveyance; or**
- 22 **(2) if the real property subject to a foreclosure reconveyance**
- 23 **agreement is sold within eighteen (18) months after entering**
- 24 **into the foreclosure reconveyance agreement, make payment**
- 25 **to the homeowner not later than ninety (90) days after the**
- 26 **resale of the real property in an amount equal to at least**
- 27 **sixty-six percent (66%) of the net proceeds from the resale of**
- 28 **the property.**

29 **Sec. 5. A foreclosure purchaser may not:**

- 30 **(1) enter into repurchase or lease terms as part of the**
- 31 **foreclosure reconveyance that are unfair or commercially**
- 32 **unreasonable or engage in any other unfair conduct;**
- 33 **(2) represent, directly or indirectly, that the:**
- 34 **(A) foreclosure purchaser is acting:**
- 35 **(i) as an adviser or a consultant; or**
- 36 **(ii) in any other manner on behalf of the**
- 37 **homeowner;**
- 38 **(B) foreclosure purchaser is assisting the homeowner to**
- 39 **save the residence; or**
- 40 **(C) foreclosure purchaser is assisting the homeowner in**
- 41 **preventing a foreclosure if the result of the transaction**
- 42 **is that the homeowner will not complete a redemption of**

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- 1 the property; or
 2 (3) until the homeowner's right to rescind or cancel the
 3 foreclosure reconveyance agreement has expired:
 4 (A) record any document, including an instrument or
 5 conveyance, signed by the homeowner; or
 6 (B) transfer to a third party or encumber, or purport to
 7 transfer to a third party or encumber, any interest in the
 8 residential real property in foreclosure.

9 Sec. 6. A foreclosure purchaser shall make a detailed
 10 accounting of the basis for the amount of payment made to a
 11 homeowner of real property resold within eighteen (18) months
 12 after entering into a foreclosure reconveyance agreement on a
 13 form prescribed by the attorney general.

14 Sec. 7. A foreclosure consultant shall retain all records and
 15 documents, including the foreclosure consultant contract, related
 16 to services performed on behalf of a homeowner for at least three
 17 (3) years after the termination or conclusion of the foreclosure
 18 consultant contract entered into by the foreclosure consultant and
 19 the homeowner.

20 Sec. 8. A foreclosure consultant may not represent to a
 21 homeowner that the foreclosure consultant is endorsed, sponsored,
 22 or affiliated with any governmental or government sponsored
 23 agency or program.

24 **Chapter 5. Enforcement**

25 Sec. 1. A person who knowingly or intentionally violates this
 26 article commits:

- 27 (1) a Class A misdemeanor;
 28 (2) a deceptive act that is actionable by the attorney general
 29 under IC 24-5-0.5-4 and is subject to the penalties and
 30 remedies available to the attorney general under IC 24-5-0.5;
 31 and
 32 (3) a deceptive act that is actionable by the attorney general
 33 under IC 37-5-8-2 and is subject to the penalties and
 34 remedies available to the attorney general under IC 37-5.

35 Sec. 2. (a) A homeowner may bring an action against a person
 36 for damages incurred as a result of a violation of this article.

- 37 (b) A homeowner who:
 38 (1) brings an action under this section; and
 39 (2) is awarded damages;
 40 may seek reasonable attorney's fees.

41 Sec. 3. (a) A court may award attorney's fees under section
 42 2(b) of this chapter.

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1 (b) If the court finds that a person willfully or knowingly
2 violated this article, the court may award damages equal to three
3 (3) times the amount of actual damages.

4 Sec. 4. (a) The Indiana housing and community development
5 authority shall maintain a list of nonprofit organizations that:

- 6 (1) offer counseling or advice to homeowners in foreclosure
- 7 or loan defaults; and
- 8 (2) do not contract for services with for-profit lenders or
- 9 foreclosure purchasers.

10 (b) The Indiana housing and community development
11 authority shall provide names and telephone numbers of the
12 organizations described in subsection (a) to a homeowner upon
13 request.

14 Sec. 5. The attorney general may adopt rules under IC 4-22-2
15 necessary to implement this article.

16 Sec. 6. Except as provided in IC 24-5-15-7(d), this article may
17 not be construed to preempt the provisions of IC 24-5-15-1 through
18 IC 24-5-15-11.

19 ARTICLE 5. HOME LOAN PRACTICES

20 Chapter 1. Application

21 Sec. 0.1. This article must be construed as a recodification of
22 prior law. The enactment of this article by SEA 169-2026 does not
23 affect the substantive operation and effect of the prior law.

24 Sec. 0.3. A contract entered into in accordance with IC 24-9
25 (before its repeal) is considered a contract entered into in
26 accordance with this article.

27 Sec. 0.5. Any document, website, or business communication
28 created in accordance with IC 24-9 (before its repeal) is considered
29 a document, website, or business communication created in
30 accordance with this article.

31 Sec. 0.7. (a) A reference in a statute or rule to a statute that is
32 repealed and replaced in the same or a different form in the
33 recodification act of the 2026 regular session of the general
34 assembly is treated after the effective date of the new provision as
35 a reference to the new provision.

36 (b) A citation reference in the recodification act of the 2026
37 regular session of the general assembly to another provision of the
38 recodification act of the 2026 regular session of the general
39 assembly is treated as including a reference to the provision of the
40 law concerning home loan practices that is substantively equivalent
41 to the provision of the recodification act of the 2026 regular session
42 of the general assembly that is referred to by the citation reference.

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1 **Sec.] 1.** Except for IC 37-5-3-7(c)(3), IC 37-5-3-7(c)(4), and
2 IC 37-5-3-7(c)(5), this article does not apply to:

3 (1) a loan made or acquired by a person organized or
4 chartered under the laws of this state, any other state, or the
5 United States relating to banks, trust companies, savings
6 associations, savings banks, credit unions, or industrial loan
7 and investment companies; or

8 (2) a loan:

9 (A) that can be purchased by the Federal National
10 Mortgage Association, the Federal Home Loan
11 Mortgage Association, or the Federal Home Loan Bank;

12 (B) to be insured by the United States Department of
13 Housing and Urban Development;

14 (C) to be guaranteed by the United States Department of
15 Veterans Affairs;

16 (D) to be made or guaranteed by the United States
17 Department of Agriculture Rural Housing Service;

18 (E) to be funded by the Indiana housing and community
19 development authority; or

20 (F) with a principal amount that exceeds the conforming
21 loan size limit for a single family dwelling as established
22 by the Federal National Mortgage Association.

23 **Chapter 2. Definitions**

24 **Sec. 1.** The definitions in this chapter apply throughout this
25 article.

26 **Sec. 2.** "Benchmark rate" means the interest rate established
27 under Section 152 of the Federal Home Ownership and Equity
28 Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations
29 adopted under that act by the Federal Reserve Board, including 12
30 CFR 226.32 and the Official Staff Commentary to the regulations
31 as amended.

32 **Sec. 3.** "Bona fide discount points" means loan discount points
33 that:

34 (1) are knowingly paid by the borrower;

35 (2) are paid for the express purpose of reducing the interest
36 rate applicable to the loan;

37 (3) reduce the interest rate from an interest rate that does
38 not exceed the benchmark rate; and

39 (4) are recouped within the first four (4) years of the
40 scheduled loan payments;

41 if the reduction in the interest rate that is achieved by the payment
42 of the loan discount points reduces the interest charged on the

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1 scheduled payments so that the borrower's dollar amount of
 2 savings in interest during the first four (4) years of the loan is equal
 3 to or greater than the dollar amount of loan discount points paid
 4 by the borrower.

5 **Sec. 4. "Borrower" means a person obligated to repay a home**
 6 **loan, including a coborrower, cosigner, or guarantor.**

7 **Sec. 5. "Bridge loan" means temporary or short term**
 8 **financing with a maturity of less than eighteen (18) months that**
 9 **requires payments of interest only until the entire unpaid balance**
 10 **is due and payable.**

11 **Sec. 6. (a) "Creditor" means:**

12 **(1) a person:**

13 **(A) who regularly extends consumer credit that is**
 14 **subject to a finance charge or that is payable by written**
 15 **agreement in more than four (4) installments; and**

16 **(B) to whom the debt arising from a home loan**
 17 **transaction is initially payable; or**

18 **(2) a person who brokers a home loan, including a person**
 19 **who:**

20 **(A) directly or indirectly solicits, processes, places, or**
 21 **negotiates home loans for others;**

22 **(B) offers to solicit, process, place, or negotiate home**
 23 **loans for others; or**

24 **(C) closes home loans that may be in the person's own**
 25 **name with funds provided by others and that are**
 26 **thereafter assigned to the person providing funding for**
 27 **the loans.**

28 **(b) The term does not include:**

29 **(1) a servicer;**

30 **(2) a state or local housing finance authority;**

31 **(3) any other state or local governmental or**
 32 **quasi-governmental entity; or**

33 **(4) an attorney providing legal services in association with**
 34 **the closing of a home loan.**

35 **Sec. 7. (a) "Deceptive act" means:**

36 **(1) an act or a practice as part of a mortgage transaction (as**
 37 **defined in IC 37-5-3-7(a)), or of a real estate transaction (as**
 38 **defined in IC 37-5-3-7(b)), in which a person at the time of**
 39 **the transaction knowingly or intentionally:**

40 **(A) makes a material misrepresentation; or**

41 **(B) conceals material information regarding the terms**
 42 **or conditions of the transaction; or**

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- 1 (2) a violation of IC 37-4 concerning mortgage rescue
 2 protection fraud as set forth in IC 37-4-5-1.
- 3 (b) For purposes of this section, "knowingly" means having
 4 actual knowledge at the time of the transaction.
- 5 Sec. 8. (a) "High cost home loan" means a home loan with:
- 6 (1) a trigger rate that exceeds the benchmark rate; or
 7 (2) total points and fees that exceed:
- 8 (A) five percent (5%) of the loan principal for a home
 9 loan having a loan principal of at least forty thousand
 10 dollars (\$40,000); or
 11 (B) six percent (6%) of the loan principal for a home
 12 loan having a loan principal of less than forty thousand
 13 dollars (\$40,000).
- 14 (b) Beginning July 1, 2006, the dollar amounts set forth in this
 15 section are subject to change at the times and according to the
 16 procedure set forth in the provisions of IC 37-2-1-5 concerning the
 17 adjustment of dollar amounts in IC 37-2.
- 18 Sec. 9. (a) "Home loan" means a loan, other than an open end
 19 credit plan, a reverse mortgage transaction, or a loan described in
 20 IC 37-5-1-1, that is secured by a mortgage or deed of trust on real
 21 estate in Indiana on which there is located or will be located a
 22 structure or structures:
- 23 (1) designed primarily for occupancy of one (1) to four (4)
 24 families; and
 25 (2) that is or will be occupied by a borrower as the
 26 borrower's principal dwelling.
- 27 (b) The term does not include a land contract.
- 28 Sec. 9.5. "Land contract" means a contract for the sale of real
 29 estate in which the seller of the real estate retains legal title to the
 30 real estate until the total contract price is paid by the buyer.
- 31 Sec. 10. (a) Except as provided in subsection (b), "points and
 32 fees" means the total of the following:
- 33 (1) Points and fees (as defined in 12 CFR 226.32(b)(1) on
 34 January 1, 2004).
 35 (2) All compensation paid directly or indirectly to a
 36 mortgage broker, including a broker that originates a loan
 37 in the broker's own name.
- 38 As used in subdivision (2), "compensation" does not include a
 39 payment included in subdivision (1).
- 40 (b) The term does not include the following:
- 41 (1) Bona fide discount points.
 42 (2) An amount not to exceed one and one-half (1 1/2) points

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- 1 in indirect broker compensation, if the terms of the loan do
 2 not include:
 3 (A) a prepayment penalty, in the case of a home loan
 4 described in IC 37-5-3-6(b); or
 5 (B) a prepayment penalty that exceeds two percent (2%)
 6 of the home loan principal, in the case of a home loan
 7 other than a home loan described in IC 37-5-3-6(b).
 8 (3) Reasonable fees paid to an affiliate of the creditor.
 9 (4) Interest prepaid by the borrower for the month in which
 10 the home loan is closed.

11 Sec. 11. "Political subdivision" means a municipality, school
 12 district, public library, local housing authority, fire protection
 13 district, public transportation corporation, local building
 14 authority, local hospital authority or corporation, local airport
 15 authority, special service district, special taxing district, or any
 16 other type of local governmental corporate entity.

17 Sec. 12. "Rate" means the interest rate charged on a home
 18 loan, based on an annual simple interest yield.

19 Sec. 13. "Total loan amount" means the principal of the home
 20 loan minus the points and fees that are included in the principal
 21 amount of the loan.

22 Sec. 14. "Trigger rate" means:

- 23 (1) for fixed rate home loans in which the interest rate will
 24 not vary during the term of the loan, the rate as of the date
 25 of closing;
 26 (2) for home loans in which the interest varies according to
 27 an index, the sum of the index rate as of the date of closing
 28 plus the maximum margin permitted at any time under the
 29 loan agreement; or
 30 (3) for all other home loans in which the rate may vary at
 31 any time during the term of the loan, the maximum rate that
 32 may be charged during the term of the home loan.

33 Chapter 3. Prohibited Lending Practices Generally

34 Sec. 0.1. A person is not subject to a prohibition or
 35 requirement of:

- 36 (1) IC 24-9-3 (before its repeal) and IC 24-9-4 (before its
 37 repeal), both as added by P.L.73-2004; or
 38 (2) this chapter and IC 37-5-4;

39 with respect to a loan made before January 1, 2005.

40 Sec. 1. (a) A creditor making a home loan may not finance,
 41 directly or indirectly, any:

- 42 (1) credit life insurance;

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- 1 (2) credit disability insurance;
 2 (3) credit unemployment insurance;
 3 (4) credit property insurance; or
 4 (5) payments directly or indirectly for any cancellation
 5 suspension agreement or contract.

6 (b) Insurance premiums, debt cancellation fees, or suspension
 7 fees calculated and paid on a monthly basis are not considered to
 8 be financed by the creditor for purposes of this chapter.

9 Sec. 2. (a) A creditor may not knowingly or intentionally
 10 replace or consolidate a zero (0) interest rate or other subsidized
 11 low rate loan made by a governmental or nonprofit lender with a
 12 high cost home loan within the first ten (10) years of the subsidized
 13 low rate loan unless the current holder of the loan consents in
 14 writing to the refinancing.

15 (b) For purposes of this section, a "subsidized low rate loan"
 16 is a loan that carries a current interest rate of at least two (2)
 17 percentage points below the current yield on treasury securities
 18 with a comparable maturity. If the loan's current interest rate is
 19 either a discounted introductory rate or a rate that automatically
 20 steps up over time, the fully indexed rate or the fully stepped up
 21 rate, as appropriate, should be used instead of the current rate to
 22 determine whether a loan is a subsidized low rate loan.

23 (c) Each mortgage or deed of trust securing a zero (0) interest
 24 rate or other subsidized low rate loan executed after January 1,
 25 2005, must prominently display the following on the face of the
 26 instrument:

27 "This instrument secures a zero (0) interest rate or other
 28 subsidized low rate loan subject to IC 37-5-3-2."

29 (d) A creditor may reasonably rely on the presence or absence
 30 of the statement described in subsection (c) on the face of an
 31 instrument executed after January 1, 2005, as conclusive proof of
 32 the existence or nonexistence of a zero (0) interest rate or other
 33 subsidized low rate loan.

34 Sec. 3. A creditor may not recommend or encourage default on
 35 an existing loan or other debt before and in connection with the
 36 closing or planned closing of a home loan that refinances all or part
 37 of the existing loan or debt.

38 Sec. 4. A creditor shall treat each payment made by a
 39 borrower in regard to a home loan as posted on the same business
 40 day as the payment was received by the creditor, servicer, or
 41 creditor's agent, or at the address provided to the borrower by the
 42 creditor, servicer, or creditor's agent for making payments.

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1 **Sec. 5. (a) A home loan agreement may not contain a provision**
 2 **that permits the creditor, in the creditor's sole discretion, to**
 3 **accelerate the indebtedness without material cause.**

4 **(b) This section does not prohibit acceleration of a home loan**
 5 **in good faith due to the borrower's failure to abide by the material**
 6 **terms of the loan.**

7 **Sec. 6. (a) A creditor may not charge a fee for informing or**
 8 **transmitting to a person the balance due to pay off a home loan or**
 9 **to provide a written release upon prepayment. A creditor must**
 10 **provide, in writing, a payoff balance not later than seven (7)**
 11 **business days (excluding legal public holidays, Saturdays, and**
 12 **Sundays) after the request is received by the creditor. A payoff**
 13 **statement provided by a creditor under this subsection must show**
 14 **the date the statement was prepared and itemize the unpaid**
 15 **principal balance and each fee, charge, or other sum included**
 16 **within the payoff amount. For purposes of this subsection, "fee"**
 17 **does not include actual charges incurred by a creditor for express**
 18 **or priority delivery of home loan documents to the borrower if**
 19 **such delivery is requested by the borrower.**

20 **(b) This subsection applies to a home loan, or the refinancing**
 21 **or consolidation of a home loan, that:**

22 **(1) is closed after June 30, 2009; and**

23 **(2) has an interest rate that is subject to change at one (1) or**
 24 **more times during the term of the home loan.**

25 **A creditor in a transaction to which this subsection applies may not**
 26 **contract for and may not charge the borrower a prepayment fee or**
 27 **penalty.**

28 **(c) This subsection applies to a home loan with respect to**
 29 **which any installment or minimum payment due is delinquent for**
 30 **at least sixty (60) days. The creditor, servicer, or the creditor's**
 31 **agent shall acknowledge a written offer made in connection with a**
 32 **proposed short sale not later than five (5) business days (excluding**
 33 **legal public holidays, Saturdays, and Sundays) after the date of the**
 34 **offer if the offer complies with the requirements for a qualified**
 35 **written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor,**
 36 **servicer, or creditor's agent is required to acknowledge a written**
 37 **offer made in connection with a proposed short sale from a third**
 38 **party acting on behalf of the debtor only if the debtor has provided**
 39 **written authorization for the creditor, servicer, or creditor's agent**
 40 **to do so. Not later than thirty (30) business days (excluding legal**
 41 **public holidays, Saturdays, and Sundays) after receipt of an offer**
 42 **under this subsection, the creditor, servicer, or creditor's agent**

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1 shall respond to the offer with an acceptance or a rejection of the
 2 offer. The thirty (30) day period described in this subsection may
 3 be extended for not more than fifteen (15) business days (excluding
 4 legal public holidays, Saturdays, and Sundays) if, before the end of
 5 the thirty (30) day period, the creditor, the servicer, or the
 6 creditor's agent notifies the debtor of the extension and the reason
 7 the extension is needed. As used in this subsection, "short sale"
 8 means a transaction in which the property that is the subject of a
 9 home loan is sold for an amount that is less than the amount of the
 10 borrower's outstanding obligation on the home loan. A creditor, a
 11 servicer, or a creditor's agent that fails to respond to an offer
 12 within the time prescribed by this subsection is liable in accordance
 13 with 12 U.S.C. 2605(f) in any action brought under that section.

14 Sec. 7. (a) As used in this section, "mortgage transaction"
 15 includes the following:

16 (1) A home loan subject to this article.

17 (2) To the extent allowed under federal law, a loan described
 18 in IC 37-5-1-1 that is secured by a mortgage or a land
 19 contract (or another consensual security interest equivalent
 20 to a mortgage or a land contract) on real estate in Indiana on
 21 which there is located or will be located a structure or
 22 structures:

23 (A) designed primarily for occupancy of one (1) to four
 24 (4) families; and

25 (B) that is or will be occupied by a borrower as the
 26 borrower's principal dwelling.

27 (3) A first lien mortgage transaction (as defined in
 28 IC 37-1-2-18) subject to IC 37-1.

29 (4) A consumer credit sale subject to IC 37-2-3 in which a
 30 mortgage or a land contract (or another consensual security
 31 interest equivalent to a mortgage or a land contract) that
 32 constitutes a lien is created or retained against land:

33 (A) that is located in Indiana; and

34 (B) upon which there is constructed or intended to be
 35 constructed a dwelling that is or will be used by the
 36 debtor primarily for personal, family, or household
 37 purposes.

38 (5) A consumer loan subject to IC 37-2-4 in which a
 39 mortgage or a land contract (or another consensual security
 40 interest equivalent to a mortgage or a land contract) that
 41 constitutes a lien is created or retained against land:

42 (A) that is located in Indiana; and

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(B) upon which there is constructed or intended to be constructed a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(6) A loan in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land:

- (A) that is located in Indiana;
- (B) upon which there is constructed or intended to be constructed a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and
- (C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is constructed or intended to be constructed a dwelling that is purchased by or through the borrower for investment or other business purposes.

(7) A reverse mortgage transaction that is secured by real estate in Indiana on which there is located a structure that is occupied by a borrower as the borrower's principal dwelling.

(b) As used in this section, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate:

- (1) that is located in Indiana;
- (2) upon which there is constructed or intended to be constructed a dwelling; and
- (3) that is classified as residential for property tax purposes.

(c) A person may not do any of the following:

- (1) Divide a home loan transaction into separate parts with the intent of evading a provision of this article.
- (2) Structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the home loan would be a high cost home loan if the home loan had been structured as a closed-end loan.
- (3) Engage in a deceptive act in connection with a mortgage transaction or a real estate transaction.
- (4) Engage in, or solicit to engage in, a real estate transaction or a mortgage transaction without a permit or license required by law.
- (5) With respect to a real estate transaction or a mortgage transaction, represent that:

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(A) the transaction has:

- (i) certain terms or conditions; or
- (ii) the sponsorship or approval of a particular person or entity;

that it does not have and that the person knows or reasonably should know it does not have; or

(B) the real estate or property that is the subject of the transaction has any improvements, appurtenances, uses, characteristics, or associated benefits that it does not have and that the person knows or reasonably should know it does not have.

(6) Maintain or offer to maintain an account for the receipt of funds for the payment of real estate taxes and insurance unless the person is any of the following:

- (A) Any of the following that is chartered under the laws of a state or the United States:
 - (i) A bank.
 - (ii) A savings and loan association.
 - (iii) A credit union.
 - (iv) A savings bank.
- (B) The creditor in a mortgage transaction.
- (C) A mortgage servicer acting on behalf of the creditor in a mortgage transaction.
- (D) A closing agent (as defined in IC 27-7-3.7-1).

(7) Fail to provide the notice required under subsection (d), within the time specified in subsection (d), if the person is a seller in a real estate transaction described in subsection (d).

(d) This subsection applies to a real estate transaction that involves a land contract between the seller and the buyer in the transaction. If the real estate that is the subject of the transaction is subject to any encumbrance, including any tax lien, foreclosure action, legal judgment, or other encumbrance affecting the title to the real estate, the seller must provide written notice by certified mail, return receipt requested, of the encumbrance to the buyer:

- (1) not later than the time the land contract is executed, if the encumbrance is created before or at the time the land contract is executed; or
- (2) not later than ten (10) business days after the encumbrance is created, if the encumbrance is created after the land contract is executed.

Sec. 8. A person seeking to enforce section 7(c)(3), 7(c)(4), or 7(c)(5) of this chapter may not knowingly or intentionally

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1 intimidate, coerce, or harass another person.

2 **Sec. 9. It is unlawful for a creditor to discriminate against any**
 3 **applicant with respect to any aspect of a credit transaction on the**
 4 **basis of race, color, religion, national origin, sex, marital status, or**
 5 **age, if the applicant has the ability to contract.**

6 **Chapter 4. Additional Prohibitions for High Cost Home Loans**

7 **Sec. 0.1. A person is not subject to a prohibition or**
 8 **requirement of:**

9 (1) IC 24-9-3 (before its repeal) and IC 24-9-4 (before its
 10 repeal), both as added by P.L.73-2004; or

11 (2) this chapter and IC 37-5-3;

12 with respect to a loan made before January 1, 2005.

13 **Sec. 1. The following additional limitations and prohibited**
 14 **practices apply to a high cost home loan:**

15 (1) A creditor making a high cost home loan may not directly
 16 or indirectly finance any points and fees.

17 (2) This subdivision does not apply to a high cost home loan
 18 described in IC 37-5-3-6(b). Prepayment fees or penalties
 19 may not be included in the loan documents for a high cost
 20 home loan or charged to the borrower if the fees or penalties
 21 exceed in total two percent (2%) of the high cost home loan
 22 amount prepaid during the first twenty-four (24) months
 23 after the high cost home loan closing.

24 (3) This subdivision does not apply to a high cost home loan
 25 described in IC 37-5-3-6(b). A prepayment penalty may not
 26 be contracted for after the second year following the high
 27 cost home loan closing.

28 (4) This subdivision does not apply to a high cost home loan
 29 described in IC 37-5-3-6(b). A creditor may not include a
 30 prepayment penalty fee in a high cost home loan unless the
 31 creditor offers the borrower the option of choosing a loan
 32 product without a prepayment fee. The terms of the offer
 33 must be made in writing and must be initialed by the
 34 borrower. The document containing the offer must be clearly
 35 labeled in large bold type and must include the following
 36 disclosure:

37 **"LOAN PRODUCT CHOICE**

38 **I was provided with an offer to accept a product both**
 39 **with and without a prepayment penalty provision. I**
 40 **have chosen to accept the product with a prepayment**
 41 **penalty."**

42 (5) A creditor shall not sell or otherwise assign a high cost

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1 home loan without furnishing the following statement to the
2 purchaser or assignee:

3 "NOTICE: This is a loan subject to special rules under
4 IC 37-5. Purchasers or assignees may be liable for all
5 claims and defenses with respect to the loan that the
6 borrower could assert against the lender."

7 (6) A mortgage or deed of trust that secures a high cost home
8 loan at the time the mortgage or deed of trust is recorded
9 must prominently display the following on the face of the
10 instrument:

11 "This instrument secures a high cost home loan as
12 defined in IC 37-5-2-8."

13 (7) A creditor making a high cost home loan may not finance,
14 directly or indirectly, any life or health insurance.

15 Sec. 2. A creditor may not knowingly or intentionally:

16 (1) refinance a high cost home loan by charging points and
17 fees on the part of the proceeds of the new high cost home
18 loan that is used to refinance the existing high cost loan
19 within four (4) years of the origination of the existing high
20 cost home loan; or

21 (2) divide a home loan transaction into multiple transactions
22 with the effect of evading this article. Where multiple
23 transactions are involved, the total points and fees charged
24 in all transactions shall be considered when determining
25 whether the protections of this section apply.

26 Sec. 3. Notwithstanding IC 37-2-4-15, a high cost home loan
27 agreement may not require a scheduled payment that is more than
28 twice as large as the average of earlier scheduled monthly
29 payments under the high cost home loan agreement unless the
30 payment becomes due and payable at least one hundred twenty
31 (120) months after the date of the high cost home loan. This
32 prohibition does not apply if:

33 (1) the payment schedule is adjusted to account for the
34 seasonal or irregular income of the borrower; or

35 (2) the loan is a bridge loan connected with or related to the
36 acquisition or construction of a dwelling intended to become
37 the borrower's principal dwelling.

38 Sec. 4. (a) Except as provided in subsection (b), a high cost
39 home loan may not include payment terms under which the
40 outstanding principal balance will increase at any time over the
41 course of the high cost home loan because the regular periodic
42 payments do not cover the full amount of interest due.

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1 (b) This section does not apply to a temporary forbearance
2 that is requested by a borrower regarding a high cost home loan.

3 Sec. 5. A high cost home loan may not contain a provision that
4 increases the interest rate after default. However, this section does
5 not apply to interest rate changes in a variable rate loan otherwise
6 consistent with the provisions of the high cost home loan
7 documents if the change in the interest rate is not triggered by the
8 event of default or the acceleration of the indebtedness.

9 Sec. 6. A high cost home loan may not include terms under
10 which more than two (2) periodic payments required under the
11 high cost home loan are consolidated and paid in advance from the
12 high cost home loan proceeds provided to the borrower.

13 Sec. 7. A creditor may not make a high cost home loan without
14 first providing the borrower information to facilitate contact with
15 a nonprofit counseling agency certified by:

16 (1) the United States Department of Housing and Urban
17 Development; or

18 (2) the Indiana housing and community development
19 authority under IC 5-20-1-4(d);

20 at the same time as the good faith estimates are provided to the
21 borrower in accordance with the requirements of the federal Real
22 Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as
23 amended.

24 Sec. 8. (a) A creditor may not make a high cost home loan
25 without regard to repayment ability.

26 (b) If a creditor presents evidence that the creditor followed
27 commercially reasonable practices in determining the borrower's
28 debt to income ratio, there is a rebuttable presumption that the
29 creditor made the high cost home loan with due regard to
30 repayment ability. For purposes of this section, there is a
31 rebuttable presumption that the borrower's statement of income
32 provided to the creditor is true and complete.

33 (c) Commercially reasonable practices include the use of:

34 (1) the debt to income ratio:

35 (A) listed in 38 CFR 36.4337(c)(1); and

36 (B) defined in 38 CFR 36.4337(d); and

37 (2) the residual income guidelines established under:

38 (A) 38 CFR 36.4337(e); and

39 (B) United States Department of Veterans Affairs form
40 26-6393.

41 Sec. 9. A creditor may not pay a contractor under a home
42 improvement contract from the proceeds of a high cost home loan

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unless:

(1) the creditor is presented with a signed and dated completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third party escrow agent under a written agreement signed by the borrower, the creditor, and the contractor before the disbursement.

Sec. 10. A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high cost home loan or to defer a payment due under the terms of a high cost home loan.

Sec. 11. A creditor may not make a high cost home loan unless the creditor has given the following notice, in writing, to the borrower not later than the time that notice is required under 12 CFR 226.31(c):

"NOTICE TO BORROWER
YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD COMPARE LOAN RATES, COSTS, AND FEES. MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED, AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE, COSTS, AND FEES COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER YOU SELECT.
IF YOU ACCEPT THE TERMS OF THIS LOAN, THE CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU HAVE PAID IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN. YOU SHOULD CONSULT AN ATTORNEY AND A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISER REGARDING THE RATE, FEES, AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. A LIST OF QUALIFIED COUNSELORS IS AVAILABLE FROM THE INDIANA HOUSING AND COMMUNITY

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1 **DEVELOPMENT AUTHORITY.**
 2 **YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN**
 3 **AGREEMENT MERELY BECAUSE YOU HAVE**
 4 **RECEIVED THIS DISCLOSURE OR HAVE SIGNED A**
 5 **LOAN APPLICATION. REMEMBER, PROPERTY TAXES**
 6 **AND HOMEOWNER'S INSURANCE ARE YOUR**
 7 **RESPONSIBILITY. NOT ALL CREDITORS PROVIDE**
 8 **ESCROW SERVICES FOR THESE PAYMENTS. YOU**
 9 **SHOULD ASK YOUR CREDITOR ABOUT THESE**
 10 **SERVICES.**

11 **ALSO, YOUR PAYMENTS ON EXISTING DEBTS**
 12 **CONTRIBUTE TO YOUR CREDIT RATINGS. YOU**
 13 **SHOULD NOT ACCEPT ANY ADVICE TO IGNORE**
 14 **YOUR REGULAR PAYMENTS TO YOUR EXISTING**
 15 **CREDITORS."**

16 **Sec. 12. Without regard to whether a borrower is acting**
 17 **individually or on behalf of others similarly situated, a provision**
 18 **of a high cost home loan agreement that:**

19 **(1) requires arbitration of a claim or defense;**
 20 **(2) allows a party to require a borrower to assert a claim or**
 21 **defense in a forum that is:**

22 **(A) less convenient;**

23 **(B) more costly; or**

24 **(C) more dilatory;**

25 **for the resolution of the dispute than an Indiana court in**
 26 **which the borrower may otherwise bring a claim or defense;**
 27 **or**

28 **(3) limits in any way any claim or defense the borrower may**
 29 **have;**

30 **is unconscionable and void.**

31 **Chapter 5. Claims, Defenses, Remedies**

32 **Sec. 1. (a) A person who purchases or is otherwise assigned a**
 33 **high cost home loan is subject to all affirmative claims and any**
 34 **defenses, except for an affirmative claim or defense pursuant to**
 35 **IC 37-5-3-7, with respect to the high cost home loan that the**
 36 **borrower could assert against a creditor or broker of the high cost**
 37 **home loan. However, this section does not apply if the purchaser or**
 38 **assignee demonstrates by a preponderance of the evidence that a**
 39 **reasonable person exercising ordinary due diligence could not**
 40 **determine that the loan was a high cost home loan. A purchaser or**
 41 **an assignee is presumed to have exercised reasonable due diligence**
 42 **if the purchaser or assignee:**

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- 1 (1) has in place at the time of the purchase or assignment of
 2 the subject loans, policies that expressly prohibit the
 3 purchase or acceptance of the assignment of any high cost
 4 home loans;
 5 (2) requires by contract that a seller or an assignor of home
 6 loans to the purchaser or assignee represents and warrants
 7 to the purchaser or assignee that either:
 8 (A) the seller or assignor will not sell or reassign any
 9 high cost home loans to the purchaser or assignee; or
 10 (B) the seller or assignor is a beneficiary of a
 11 representation and warranty from a previous seller or
 12 assignor to that effect;
 13 (3) exercises reasonable due diligence:
 14 (A) at the time of purchase or assignment of home loans;
 15 or
 16 (B) within a reasonable period after the purchase or
 17 assignment of home loans;
 18 intended by the purchaser or assignee to prevent the
 19 purchaser or assignee from purchasing or taking assignment
 20 of any high cost home loans; or
 21 (4) satisfies the requirements of subdivisions (1) and (2) and
 22 establishes that a reasonable person exercising ordinary due
 23 diligence could not determine that the loan was a high cost
 24 home loan based on the:
 25 (A) documentation required by the federal Truth in
 26 Lending Act (15 U.S.C. 1601 et seq.); and
 27 (B) itemization of the amount financed and other
 28 disbursement disclosures.
 29 (b) A borrower acting only in an individual capacity may
 30 assert against the creditor or any subsequent holder or assignee of
 31 a high cost home loan:
 32 (1) a violation of IC 37-5-4-2 as a defense, claim, or
 33 counterclaim, after:
 34 (A) an action to enjoin foreclosure or to preserve or
 35 obtain possession of the dwelling that secures the loan is
 36 initiated;
 37 (B) an action to collect on the loan or foreclose on the
 38 collateral securing the loan is initiated; or
 39 (C) the loan is more than sixty (60) days in default;
 40 within three (3) years after the closing of a home loan;
 41 (2) a violation of this article in connection to the high cost
 42 home loan as a defense, claim, or counterclaim in an original

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1 action within five (5) years after the closing of a high cost
2 home loan; and

3 (3) any defense, claim, counterclaim, or action to enjoin
4 foreclosure or preserve or obtain possession of the home that
5 secures the loan, including a violation of this article after:

6 (A) an action to collect on the loan or foreclose on the
7 collateral securing the loan is initiated;

8 (B) the debt arising from the loan is accelerated; or

9 (C) the loan is more than sixty (60) days in default;

10 at any time during the term of a high cost home loan.

11 (c) In an action, a claim, or a counterclaim brought under
12 subsection (b), the borrower may recover only amounts required
13 to reduce or extinguish the borrower's liability under a home loan
14 plus amounts required to recover costs, including reasonable
15 attorney's fees.

16 (d) The provisions of this section are effective notwithstanding
17 any other provision of law. This section shall not be construed to
18 limit the substantive rights, remedies, or procedural rights
19 available to a borrower against any creditor, assignee, or holder
20 under any other law. The rights conferred on borrowers by
21 subsections (a) and (b) are independent of each other and do not
22 limit each other.

23 Sec. 2. (a) If a creditor asserts that grounds for acceleration
24 under the terms of a high cost home loan exist and requires the
25 payment in full of all sums secured by the security instrument, the
26 borrower or a person authorized to act on the borrower's behalf at
27 any time before the title is transferred by means of foreclosure,
28 judicial proceeding and sale, or otherwise may cure the default and
29 reinstate the high cost home loan by tendering the amount or
30 performance as specified in the security instrument.

31 (b) If the borrower cures the default on a high cost home loan,
32 the original loan terms shall be reinstated, and any acceleration of
33 any obligation under the security instrument or note arising from
34 the default is nullified as of the date of the cure.

35 Sec. 3. (a) A creditor making a high cost home loan that has
36 the right to foreclose must use the judicial foreclosure procedures
37 of the state in which the property securing the high cost home loan
38 is located. The borrower has the right to assert in the proceeding
39 the nonexistence of a default and any other claim or defense to
40 acceleration and foreclosure, including any claim or defense based
41 on any violations of this article.

42 (b) This section is not intended and shall not be construed to

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1 allow any claim or defense otherwise barred by any statute of
2 limitation or repose.

3 Sec. 4. (a) This section does not apply to a violation of
4 IC 37-5-3-7(c)(4), IC 37-5-3-7(c)(5), or IC 37-5-3-7(c)(6). A person
5 who violates this article is liable to a person who is a party to the
6 home loan transaction, mortgage transaction (as defined in
7 IC 37-5-3-7(a)), or real estate transaction (as defined in
8 IC 37-5-3-7(b)), as appropriate, that gave rise to the violation for
9 the following:

10 (1) Actual damages, including consequential damages. A
11 person is not required to demonstrate reliance in order to
12 receive actual damages.

13 (2) Statutory damages equal to two (2) times the finance
14 charges agreed to in a home loan agreement.

15 (3) Costs and reasonable attorney's fees.

16 (b) A person may be granted injunctive, declaratory, and other
17 equitable relief as the court determines appropriate in an action to
18 enforce compliance with this chapter.

19 (c) The right of rescission granted under 15 U.S.C. 1601 et seq.
20 for a violation of the federal Truth in Lending Act (15 U.S.C. 1601
21 et seq.) is available to a person acting only in an individual capacity
22 by way of recoupment as a defense against a party foreclosing on
23 a home loan at any time during the term of the loan. Any
24 recoupment claim asserted under this provision is limited to the
25 amount required to reduce or extinguish the person's liability
26 under the home loan plus amounts required to recover costs,
27 including reasonable attorney's fees. This article shall not be
28 construed to limit the recoupment rights available to a person
29 under any other law.

30 (d) The remedies provided in this section are cumulative but
31 are not intended to be the exclusive remedies available to a person.
32 Except as provided in subsection (e), a person is not required to
33 exhaust any administrative remedies under this article or under
34 any other applicable law.

35 (e) Before bringing an action regarding an alleged deceptive
36 act under this chapter, a person must:

37 (1) notify the homeowner protection unit established by
38 IC 4-6-12-2 of the alleged violation giving rise to the action;
39 and

40 (2) allow the homeowner protection unit at least ninety (90)
41 days to institute appropriate administrative and civil action
42 to redress a violation.

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1 (f) An action under this chapter must be brought within five
 2 (5) years after the date that the person knew, or by the exercise of
 3 reasonable diligence should have known, of the violation of this
 4 article.

5 (g) An award of damages under subsection (a) has priority
 6 over a civil penalty imposed under this article.

7 Sec. 5. (a) If the creditor or an assignee establishes by a
 8 preponderance of evidence that a violation of this article is
 9 unintentional or the result of a bona fide error of law or fact
 10 notwithstanding the maintenance of procedures reasonably
 11 adopted to avoid any such violation or error, the validity of the
 12 transaction is not affected, and no liability is imposed under section
 13 4 of this chapter except in the case of a refusal to make a refund.

14 (b) Except as provided in subsection (c), a creditor in a high
 15 cost home loan who in good faith fails to comply with this article is
 16 not considered to have violated this article if the creditor does the
 17 following before receiving notice of the failure from the borrower:

18 (1) Not later than ninety (90) days after the date of the loan
 19 closing:

20 (A) makes appropriate restitution to the borrower of
 21 any amounts collected in error; and

22 (B) takes necessary action to make all appropriate
 23 adjustments to the loan to correct the error.

24 (2) Not later than one hundred twenty (120) days after the
 25 date of the loan closing, notifies the borrower of:

26 (A) the error; and

27 (B) the amount of the required restitution or
 28 adjustment.

29 (c) Subsection (b) does not apply unless the creditor establishes
 30 that the compliance failure was not intentional and resulted from
 31 a bona fide error of fact or law, notwithstanding the maintenance
 32 of procedures reasonably adopted to avoid the errors.

33 Sec. 6. The rights conferred by this article are in addition to
 34 rights granted under any other law.

35 Chapter 6. Reporting Requirements

36 Sec. 1. (a) A servicer of a high cost home loan shall report to
 37 least once each calendar quarter to a nationally recognized
 38 consumer credit reporting agency both the favorable and
 39 unfavorable payment history information of the borrower on
 40 payments due to the creditor on a high cost home loan.

41 (b) This section does not prohibit a servicer from agreeing
 42 with the borrower not to report specified payment history

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1 information in the event of a resolved or an unresolved dispute
 2 with a borrower and does not apply to high cost home loans held
 3 or serviced by a lender for less than ninety (90) days.

4 **Chapter 7. State Power to Regulate Lending**

5 **Sec. 1. The state is the sole regulator of the business of**
 6 **originating, granting, servicing, and collecting loans and other**
 7 **forms of credit in Indiana and the manner in which the business is**
 8 **conducted. This regulation preempts all other regulation of these**
 9 **activities by any political subdivision.**

10 **Sec. 2. Political subdivisions may not:**

11 (1) enact, issue, or enforce ordinances, resolutions,
 12 regulations, orders, requests for proposals, or requests for
 13 bids pertaining to financial or lending activities, including
 14 ordinances, resolutions, and rules that disqualify persons
 15 from doing business with a municipality and that are based
 16 upon lending terms or practices; or

17 (2) impose reporting requirements or any other obligations
 18 upon persons regarding financial services or lending
 19 practices or upon subsidiaries or affiliates that:

20 (A) are subject to the jurisdiction of the department of
 21 financial institutions;

22 (B) are subject to the jurisdiction or regulatory
 23 supervision of the Board of Governors of the Federal
 24 Reserve System, the Office of the Comptroller of the
 25 Currency, the National Credit Union Administration,
 26 the Federal Deposit Insurance Corporation, the Federal
 27 Trade Commission, or the United States Department of
 28 Housing and Urban Development;

29 (C) are chartered by the United States Congress to
 30 engage in secondary market mortgage transactions;

31 (D) are created by the Indiana housing and community
 32 development authority; or

33 (E) originate, purchase, sell, assign, securitize, or service
 34 property interests or obligations created by financial
 35 transactions or loans made, executed, originated, or
 36 purchased by persons referred to in clause (A), (B), (C),
 37 or (D).

38 **Chapter 8. Penalties and Enforcement**

39 **Sec. 1. A person who knowingly or intentionally violates this**
 40 **article commits:**

41 (1) a Class A misdemeanor; and

42 (2) except for a violation of IC 37-5-3-7(c)(4) by a person

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1 required to be licensed by the department of financial
 2 institutions, an act that is actionable by the attorney general
 3 under IC 24-5-0.5 and is subject to the penalties listed in
 4 IC 24-5-0.5.

5 **Sec. 2. (a)** The attorney general and the attorney general's
 6 homeowner protection unit established under IC 4-6-12 shall
 7 enforce this article. An action may not be brought under this
 8 article more than five (5) years after the occurrence of the
 9 violation.

10 (b) The attorney general may refer a matter under section 1 of
 11 this chapter to a prosecuting attorney for enforcement.

12 **Sec. 3. (a)** This section does not apply to a violation of
 13 IC 37-5-3-7(c)(4) by a person required to be licensed by the
 14 department of financial institutions. The attorney general may
 15 bring an action to enjoin a violation of this article. A court in which
 16 the action is brought may:

- 17 (1) issue an injunction;
- 18 (2) order a person to make restitution;
- 19 (3) order a person to reimburse the state for reasonable costs
 20 of the attorney general's investigation and prosecution of the
 21 violation of this article; and
- 22 (4) impose a civil penalty of not more than ten thousand
 23 dollars (\$10,000) per violation.

24 (b) A person who violates an injunction under this section is
 25 subject to a civil penalty of not more than ten thousand dollars
 26 (\$10,000) per violation.

27 (c) The court that issues an injunction retains jurisdiction over
 28 a proceeding seeking the imposition of a civil penalty under this
 29 section.

30 **Sec. 4.** The attorney general may file complaints with any of
 31 the agencies listed in IC 4-6-12-4 to implement this chapter.

32 Chapter 9. Fees

33 **Sec. 1.** The county recorder shall assess a fee for each
 34 mortgage recorded that shall be paid to the county treasurer at the
 35 end of each calendar month as set forth in IC 36-2-7-10(c)(2).

36 **Sec. 2.** On or before June 20 and December 20 of each year,
 37 after completing an audit of the county treasurer's monthly reports
 38 required by IC 36-2-10-16, the county auditor shall distribute to
 39 the state comptroller two dollars and fifty cents (\$2.50) of the
 40 mortgage recording fee collected under IC 36-2-7-10(c)(2) for each
 41 mortgage recorded by the county recorder. The state comptroller
 42 shall deposit the money in the state general fund to be distributed

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1 as described in section 3 of this chapter.

2 Sec. 3. On or before June 30 and December 31 of each year the
3 state comptroller shall distribute one dollar and twenty-five cents
4 (\$1.25) of the mortgage recording fee to the state general fund and
5 one dollar and twenty-five cents (\$1.25) of the mortgage recording
6 fee to the homeowner protection unit account established by
7 IC 4-6-12-9.

8 SECTION 98. [EFFECTIVE JULY 1, 2026] (a) This SECTION
9 applies to a person subject to:

- 10 (1) IC 24-4.4;
11 (2) IC 24-4.5;
12 (3) IC 24-5.5; or
13 (4) IC 24-9;

14 before their repeal.

15 (b) A person described in subsection (a) has until July 1, 2027,
16 to amend any document, website, or business communication to
17 comply with the recodification of the statutes described in
18 subsection (a) in IC 37, as added by this act.

19 (c) This SECTION expires June 30, 2028.

20 SECTION 99. [EFFECTIVE JULY 1, 2026] (a) ~~Rules adopted~~
21 ~~in accordance with:~~

- 22 ~~(1) IC 24-4.4;~~
23 ~~(2) IC 24-4.5;~~
24 ~~(3) IC 24-5.5; or~~
25 ~~(4) IC 24-9;~~

26 ~~before their repeal are considered rules adopted in accordance~~
27 ~~with IC 37, as added by this act, and remain in effect~~ [As used in
28 the recodification act of the 2026 regular session of the general
29 assembly, a reference to rules adopted under any provision of
30 IC 24-4.4, IC 24-4.5, IC 24-5.5, or IC 24-9 or under any other
31 provision of the recodification act of the 2026 regular session of the
32 general assembly refers to either:

- 33 (1) rules adopted under the recodification act of the 2026
34 regular session of the general assembly; or
35 (2) rules adopted under the prior law until those rules have
36 been amended, repealed, or superseded.

37 (b) Rules adopted under prior law continue in effect after June
38 30, 2026, until the rules are amended, repealed, or suspended.]

39 [(~~b~~) (c)] Before January 1, 2028, the department of financial
40 institutions and the secretary of state shall amend its rules to
41 comply with the changes made by this act.

42 (~~c~~) (d)] This SECTION expires June 30, 2028.

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