

IC 24-4.5-3

Chapter 3. Loans

(Part 1. General Provisions)

IC 24-4.5-3-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 201 of this chapter by P.L.163-1999 do not apply to consumer loans in existence before July 1, 1999.

(2) The amendments made to section 209(1) of this chapter by P.L.159-2001 apply to a contract between a lender and a debtor that is entered into or renewed after June 30, 2001.

As added by P.L.220-2011, SEC.390.

IC 24-4.5-3-101

Short title

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code — Loans.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-102

Application

Sec. 102. This chapter applies to consumer loans, including supervised loans. In addition, IC 24-4.5-3-601 through IC 24-4.5-3-605 apply to consumer related loans. The licensing provisions of this chapter apply to consumer credit sales under IC 24-4.5-2 that are subordinate lien mortgage transactions.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.62; P.L.35-2010, SEC.47.

IC 24-4.5-3-103

Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.1-1994, SEC.118; P.L.122-1994, SEC.16. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-104

Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.247-1983, SEC.14; P.L.122-1994, SEC.17. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-105

"Consumer loan"; first lien mortgage transaction not included

Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure

(IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-3-209), providing property tax information (IC 24-4.5-3-701), and powers and functions of the department (IC 24-4.5-6-104), "consumer loan" does not include a first lien mortgage transaction.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1979, P.L.238, SEC.1; Acts 1981, P.L.218, SEC.5; P.L.152-1986, SEC.63; P.L.14-1992, SEC.23; P.L.176-1996, SEC.5; P.L.23-2000, SEC.4; P.L.90-2008, SEC.7; P.L.35-2010, SEC.48.

IC 24-4.5-3-106

"Loan"

Sec. 106. Definition: "Loan" — "Loan" includes

(1) the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;

(2) the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately;

(3) the creation of debt pursuant to a lender credit card or similar arrangement; and

(4) the forbearance of debt arising from a loan.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-107

Definitions; "lender"; "precomputed"; "principal"

Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal" — (1) Except as otherwise provided, "lender" means a person regularly engaged in making consumer loans. The term includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;

(b) the amount of any discount excluded from the loan finance charge (subsection (2) of IC 24-4.5-3-109); and

(c) to the extent that payment is deferred:

(i) amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees if not included in (a); and

(ii) additional charges permitted by this chapter (IC 24-4.5-3-202).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.145-2008, SEC.25.

IC 24-4.5-3-108

"Revolving loan account"

Sec. 108. Definition: "Revolving Loan Account" — "Revolving loan account" means an arrangement between a lender and a debtor pursuant to which (1) the lender may permit the debtor to obtain loans from time to time, (2) the unpaid balances of principal and the loan finance and other appropriate charges are debited to an account, (3) a loan finance charge if made is not precomputed but is computed on the outstanding unpaid balances of the debtor's account from time to time, and (4) the debtor has the privilege of paying the balances in instalments.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-109

"Loan finance charge"

Sec. 109. (1) "Loan finance charge" means the sum of:

- (a) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting the lender against the debtor's default or other credit loss; and
- (b) charges incurred for investigating the collateral or credit-worthiness of the debtor.

The term does not include charges as a result of default, additional charges (IC 24-4.5-3-202), delinquency charges (IC 24-4.5-3-203.5), or deferral charges (IC 24-4.5-3-204). The term does not include charges paid or payable to a third party that are not required by the lender as a condition or incident to the extension of credit except for borrower paid mortgage broker fees, including fees paid directly to the broker or the lender (for delivery to the broker), whether the fees are paid in cash or financed. However, borrower paid mortgage broker fees do not include fees paid to a mortgage broker by a creditor, including yield spread premiums and service release fees.

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a lender credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.15; P.L.14-1992, SEC.24; P.L.172-1997, SEC.4.

(Part 2. Maximum Charges)

IC 24-4.5-3-201

Loan finance charge and origination fee for consumer loans other than supervised loans

Sec. 201. Loan Finance Charge for Consumer Loans other than

Supervised Loans—(1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a supervised loan (as defined in section 501 of this chapter), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-five percent (25%) per year on the unpaid balances of the principal.

(2) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(3) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth ($1/30$) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

(4) With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is two and eighty-three thousandths percent (2.083%) of an amount not greater than:

(i) the average daily balance of the debt;

(ii) the unpaid balance of the debt on the same day of the billing cycle; or

(iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth ($1/12$) the maximum annual percentage rate as the number of days in the billing cycle bears to thirty (30); and

(c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty

cents (\$0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$0.50) which bears the same relation to fifty cents (\$0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this paragraph if the lender has made an annual charge for the same period as permitted by the provisions on additional charges in section 202(1)(c) of this chapter.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

- (a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and
- (b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not assess a loan origination fee under subsection (8) and:

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
 - (i) is contracted for by the parties; and
 - (ii) does not exceed the rate prescribed in subsection (1); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(7) The amount of thirty dollars (\$30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(8) Except as provided in subsection (6), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, a lender may contract for and receive a loan origination fee of not more than the following:

- (a) In the case of a consumer loan that is secured by an interest in land and that:
 - (i) is not made under a revolving loan account, two percent (2%) of the loan amount; or
 - (ii) is made under a revolving loan account, two percent (2%) of the line of credit.

(b) In the case of consumer loan that is not secured by an interest in land, fifty dollars (\$50).

(9) The loan origination fee provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a consumer loan that is not secured by an interest in land, if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a loan origination fee on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) loan origination fees in any twelve (12) month period.

(11) In the case of a consumer loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the loan origination fee provided for in subsection (8).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.3; P.L.14-1992, SEC.25; P.L.122-1994, SEC.18; P.L.45-1995, SEC.8; P.L.163-1999, SEC.1; P.L.10-2006, SEC.5 and P.L.57-2006, SEC.5; P.L.145-2008, SEC.26; P.L.91-2013, SEC.2.

IC 24-4.5-3-202

Additional charges

Sec. 202. (1) In addition to the loan finance charge permitted by IC 24-4.5-3-201 through IC 24-4.5-3-210, a lender may contract for and receive the following additional charges in connection with a consumer loan:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Annual participation fees assessed in connection with a revolving loan account. Annual participation fees must:

(i) be reasonable in amount;

(ii) bear a reasonable relationship to the lender's costs to maintain and monitor the loan account; and

(iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(d) 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:

(i) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(ii) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.

(iii) Notary and credit report fees.

(iv) Amounts required to be paid into escrow or trustee

accounts if the amounts would not otherwise be included in the loan finance charge.

(v) Appraisal fees.

(e) Notwithstanding provisions of the Federal Consumer Credit Protection Act 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.

(f) A charge not to exceed twenty-five dollars (\$25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.

(g) 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.

(h) With respect to a revolving loan account, a transaction fee that may not exceed the lesser of the following:

(i) Two percent (2%) of the amount of the transaction.

(ii) Ten dollars (\$10).

The additional charges provided for in subdivisions (f), (g), and (h) are not subject to refund or rebate.

(2) 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:

(a) 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

(b) 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.

*(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.266, SEC.1.)
As amended by P.L.247-1983, SEC.16; P.L.139-1990, SEC.1;
P.L.181-1991, SEC.3; P.L.14-1992, SEC.26; P.L.122-1994, SEC.19;
P.L.45-1995, SEC.9; P.L.80-1998, SEC.6; P.L.213-2007, SEC.8;
P.L.217-2007, SEC.7.*

IC 24-4.5-3-203

Repealed

(Repealed by P.L.122-1994, SEC.122.)

IC 24-4.5-3-203.5

Delinquency charges; credit charges not precomputed

Sec. 203.5. Delinquency Charges — (1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date.

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. With regard to a delinquency charge on consumer loans made under a revolving loan account, the delinquency charge may be applied each month that the payment is less than the minimum required payment on the account. A delinquency charge may be collected any time after it accrues. A delinquency charge may not be collected if the installment has been deferred and a deferral charge (IC 24-4.5-3-204) has been paid or incurred.

(3) A delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

- (a) an earlier installment; or
- (b) payment due;

may not have been paid in full. For purposes of this subsection, payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed loan are in default for ten (10) days or more, the lender may elect to convert the loan from a precomputed loan to a loan in which the finance charge is based on unpaid balances. A lender that makes this election shall make a rebate under the provisions on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charges for consumer loans (IC 24-4.5-3-201) or supervised loans (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the amount of any permitted minimum charge (IC 24-4.5-3-210). Any deferral charges made on installments due at or after the maturity date

of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars (\$5) in subsection (1) is subject to change pursuant to the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) 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 as allowed by IC 24-4.5-1-106.

As added by P.L.247-1983, SEC.17. Amended by P.L.181-1991, SEC.4; P.L.115-1992, SEC.2; P.L.14-1992, SEC.27; P.L.122-1994, SEC.20; P.L.45-1995, SEC.10.

IC 24-4.5-3-204

Deferral charges

Sec. 204. Deferral Charges — (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid instalments, and the lender may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (IC 24-4.5-3-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.186-2015, SEC.14.

IC 24-4.5-3-205

Loan finance charge on refinancing

Sec. 205. Loan Finance Charge on Refinancing — With respect to a consumer loan, refinancing, or consolidation, the lender may by agreement with the debtor refinance the unpaid balance and may contract for and receive a loan finance charge based on the principal resulting from the refinancing at a rate not exceeding that permitted

by the provisions on a loan finance charge for consumer loans (IC 24-4.5-3-201) or the provisions on a loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate. For the purpose of determining the loan finance charge permitted, the principal resulting from the refinancing comprises the following:

(1) if the transaction was not precomputed, the total of the unpaid balance and the accrued charges on the date of the refinancing, or, if the transaction was precomputed, the amount which the debtor would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-3-210) on the date of refinancing; and

(2) appropriate additional charges (IC 24-4.5-3-202), payment of which is deferred.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.28.

IC 24-4.5-3-206

Loan finance charge on consolidation

Sec. 206. Loan Finance Charge on Consolidation — (1) If a debtor owes an unpaid balance to a lender with respect to a consumer loan, refinancing, or consolidation, and becomes obligated on another consumer loan, refinancing, or consolidation with the same lender, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer loan, refinancing, or consolidation was not precomputed, the parties may agree to add the unpaid amount of principal and accrued charges on the date of consolidation to the principal with respect to the subsequent loan. If the previous consumer loan, refinancing, or consolidation was precomputed, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing (24-4.5-3-205) and to consolidate the principal resulting from the refinancing by adding it to the principal with respect to the subsequent loan. In either case the lender may contract for and receive a loan finance charge based on the aggregate principal resulting from the consolidation at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or the provisions on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

(2) The parties may agree to consolidate the unpaid balance of a consumer loan with the unpaid balance of a consumer credit sale. The parties may agree to refinance the previous unpaid balance pursuant to the provisions on refinancing sales (24-4.5-2-205) or the provisions on refinancing loans (24-4.5-3-205), whichever is appropriate, and to consolidate the amount financed resulting from the refinancing or the principal resulting from the refinancing by adding it to the amount financed or principal with respect to the subsequent sale or loan. The aggregate amount resulting from the consolidation shall be deemed principal, and the creditor may contract for and receive a loan finance charge based on the principal at a rate not in excess of that permitted by the provisions on loan

finance charge for consumer loans (24-4.5-3-201) or the provisions on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-207

Conversion to revolving loan account

Sec. 207. Conversion to Revolving Loan Account. — The parties may agree to add to a revolving loan account the unpaid balance of a consumer loan, not made pursuant to a revolving loan account, or a refinancing, or consolidation thereof, or the unpaid balance of a consumer credit sale, refinancing or consolidation, for the purpose of this section.

(1) the unpaid balance of a consumer loan, refinancing, or consolidation is an amount equal to the principal determined according to the provisions on refinancing (24-4.5-3-205); and

(2) the unpaid balance of a consumer credit sale, refinancing, or consolidation is an amount equal to the amount financed determined according to the provisions on refinancing (24-4.5-2-205).

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-208

Advances to perform covenants of debtor

Sec. 208. Advances to Perform Covenants of Debtor. — (1) If the agreement with respect to a consumer loan, refinancing, or consolidation contains covenants by the debtor to perform certain duties pertaining to insuring or preserving collateral and if the lender pursuant to the agreement pays for performance of the duties on behalf of the debtor, the lender may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the debtor in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the debtor performed by the lender pertain to insurance, a brief description of the insurance paid for by the lender including the type and amount of coverages. No further information need be given.

(2) A loan finance charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the debtor pursuant to the provisions on disclosure (Part 3) with respect to the loan, refinancing, or consolidation, except that with respect to a revolving loan account the amount of the advance may be added to the unpaid balance of the debt and the lender may make a loan finance charge not exceeding that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or for supervised loans (24-4.5-3-508), whichever is appropriate.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-209

Right to prepay; prepayment penalty; total finance charge; payoff

statement; liability for failure to provide; short sale; acknowledgment of offer; acceptance or rejection; acceptance of payment; liability for failure to respond

Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

- (a) if the loan is refinanced or consolidated with the same creditor;
- (b) for prepayment by proceeds of any insurance or acceleration after default; or
- (c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under section 201 of this chapter, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

- (a) The loan origination fee allowed under section 201 of this chapter.
- (b) The debtor paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide, in writing, an accurate payoff amount for the consumer loan to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

- (a) one hundred dollars (\$100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's first written request; and
- (b) the greater of:

- (i) one hundred dollars (\$100); or
- (ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer 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 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. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than five (5) business days (excluding legal public holidays, Saturdays, and Sundays) after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days (excluding legal public holidays, Saturdays, and Sundays) after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:

- (a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or
- (b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before

the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.29; P.L.122-1994, SEC.21; P.L.23-2000, SEC.6; P.L.159-2001, SEC.1; P.L.145-2008, SEC.27; P.L.35-2010, SEC.49; P.L.89-2011, SEC.16; P.L.27-2012, SEC.18.

IC 24-4.5-3-210

Rebate upon prepayment

Sec. 210. Rebate upon Prepayment. — (1) Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer loan, refinancing, or consolidation, an amount not less than the unearned portion of the loan finance charge calculated according to this section shall be rebated to the debtor. If the rebate otherwise required is less than one dollar (\$1), no rebate need be made.

(2) Upon prepayment in full of a consumer loan, refinancing, or consolidation, other than one (1) under a revolving loan account, if the loan finance charge earned is less than any permitted minimum loan finance charge (IC 24-4.5-3-201(6) or IC 24-4.5-3-508(7)) contracted for, whether or not the consumer loan, refinancing, or consolidation is precomputed, the lender may collect or retain the minimum loan finance charge, as if earned, not exceeding the loan finance charge contracted for.

(3) The unearned portion of the loan finance charge is a fraction of the loan finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the loan agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-3-205) or a consolidation (IC 24-4.5-3-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;

(b) "computation period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;

(c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured

from the date of a loan, refinancing, or consolidation, and includes either the first or last day of the interval; and

(d) if the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

(5) This subsection applies only if the schedule of payments is not regular.

(a) If the computational period is one (1) month and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) 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 month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(b) Notwithstanding paragraph (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the lender, at the lender's option, may exclude the extra days and the charge for the extra days in computing the unearned loan finance charge; but if the lender does so and a rebate is required before the due date of the first scheduled installment, the lender shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than five (5) days, or more than nine (9) days, but not more than eleven (11) days, the unearned loan finance 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 lender, 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 loan finance 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

(ii) 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 subparagraph applies whether or not subparagraph (i) applies.

(6) If a deferral (IC 24-4.5-3-204) has been agreed to, the unearned portion of the loan finance 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 loan finance 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 loan finance charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the lender of delinquency charges (IC 24-4.5-3-203, repealed in 1994).

(8) If the maturity is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer loan by the proceeds of consumer credit insurance (IC 24-4.5-4-103), the debtor or the debtor's estate shall pay the same loan finance charge or receive the same rebate as though the debtor had prepaid the agreement on the date the proceeds of the insurance are paid to the lender, but no later than ten (10) business days after satisfactory proof of loss is furnished to the lender. This subsection applies whether or not the loan is precomputed.

(10) Upon prepayment in full of a transaction with a term of more than sixty-one (61) months, the unearned loan finance charge shall be computed by applying the disclosed annual percentage rate that would yield the loan finance charge originally contracted for to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

(Formerly: Acts 1971, P.L. 366, SEC. 4.) As amended by P.L. 14-1992, SEC. 30; P.L. 122-1994, SEC. 22; P.L. 2-1995, SEC. 92; P.L. 176-1996, SEC. 6.

(Part 3. Disclosure and Advertising)

IC 24-4.5-3-301

Indiana Code 2015

Disclosures required by Federal Consumer Credit Protection Act

Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan (IC 24-4.5-1-301.5(9)).

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act.

*(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.267, SEC.1.)
As amended by Acts 1981, P.L.218, SEC.6; Acts 1981, P.L.217, SEC.2; P.L.247-1983, SEC.18; P.L.45-1995, SEC.11; P.L.35-2010, SEC.50.*

IC 24-4.5-3-302

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-303

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-304

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-305

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-306

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-307

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-308

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-309

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-310

Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-311

Repealed

(Repealed by P.L.247-1983, SEC.26.)

(Part 4. Limitations on Agreements and Practices)

IC 24-4.5-3-401

Scope

Sec. 401. Scope — This Part applies to consumer loans.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-402

Balloon payments; compliance with Alternative Mortgage Transaction Parity Act

Sec. 402. (1) This section does not apply to a first lien mortgage transaction.

(2) Except as provided in IC 24-9-4-3 with respect to a high cost home loan (as defined in IC 24-9-2-8), with respect to a consumer loan, other than one pursuant to a revolving loan account or one on which only loan finance charges are payable prior to the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the debtor has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the debtor than the terms of the original loan. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor.

(3) For the purposes of this section, "terms of the refinancing" means:

- (a) in the case of a fixed-rate consumer loan, the individual payment amounts, the charges as a result of default by the debtor, and the rate of the loan finance charge; and
- (b) in the case of a variable rate consumer loan, the method used to determine the individual payment amounts, the charges as a result of default by the debtor, the method used to determine the rate of the loan finance charge, the circumstances under which the rate of the loan finance charge may increase, and any limitations on the increase in the rate of the loan finance charge.

(4) If a consumer loan is made under the authority of the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note evidencing the mortgage must contain a reference to the applicable federal law.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.19; P.L.213-2007, SEC.9; P.L.217-2007, SEC.8; P.L.90-2008, SEC.8.

IC 24-4.5-3-403

No assignment of earnings

Sec. 403. No Assignment of Earnings — (1) A lender may not take an assignment of earnings of the debtor for payment or as security for payment of a debt arising out of a consumer loan or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the debtor. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted by law.

(2) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to him secured by an assignment of earnings. *(Formerly: Acts 1971, P.L.366, SEC.4.)*

IC 24-4.5-3-404

Attorney's fees

Sec. 404. With respect to a consumer loan the agreement may provide for the payment by the debtor of reasonable attorney's fees after default and referral to an attorney not a salaried employee of the lender. A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.64; P.L.14-1992, SEC.31.

IC 24-4.5-3-405

Limitation on default charges

Sec. 405. Limitation on Default Charges — Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer loan may not provide for charges as a result of default by the debtor other than those authorized by this Article. A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-406

Notice of assignment

Sec. 406. Notice of Assignment — The debtor is authorized to pay the original lender until he receives notification of assignment of rights to payment pursuant to a consumer loan and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the debtor may pay the original lender.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-407

Authorization to confess judgment prohibited

Sec. 407. Authorization to Confess Judgment Prohibited — A debtor may not authorize any person to confess judgment on a claim arising out of a consumer loan. An authorization in violation of this section is void.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-408

Time for crediting payments

Sec. 408. (1) This section also applies to revolving loan accounts.

(2) Except as provided in subsection (3) a creditor shall credit a payment to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge, including a late charge. A delay in posting does not violate this section so long as the payment is credited as of the date of receipt.

(3) If a creditor specifies requirements for the consumer to follow in making payments of the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two (2) days of receipt of the payment.

(4) If a creditor fails to credit a payment as required by this section in time to avoid the imposition of a finance or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

As added by P.L.163-1999, SEC.2.

(Part 5. Regulated and Supervised Loans)

IC 24-4.5-3-501

Definitions; "supervised loan"; "supervised lender"

Sec. 501. Definitions:

(1) "Supervised loan" means a consumer loan in which the rate of the loan finance charge exceeds twenty-five percent (25%) per year as determined according to the provisions on loan finance charge for consumer loans in section 201 of this chapter.

(2) "Supervised lender" means a person authorized to make or take assignments of supervised loans.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.4; P.L.122-1994, SEC.23; P.L.91-2013, SEC.3.

IC 24-4.5-3-501.5

Persons also engaging in loan brokerage business; applicability of loan broker statutes; examination by department; cooperation with securities division

Sec. 501.5. (1) If a person licensed or required to be licensed under section 502.1 of this chapter also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:

- (a) IC 23-2-5-9.
- (b) IC 23-2-5-9.1.
- (c) IC 23-2-5-15.

- (d) IC 23-2-5-16.
- (e) IC 23-2-5-17.
- (f) IC 23-2-5-18.
- (g) IC 23-2-5-18.5.
- (h) IC 23-2-5-20.
- (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
- (j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

As added by P.L.186-2015, SEC.15.

IC 24-4.5-3-502

Authority to make, take assignment of, or collect consumer loans other than mortgage transactions; license required; exempt persons; separate licenses not required for branches; separate license required for activities involving small loans

Sec. 502. (1) A person that is a:

- (a) depository institution;
- (b) subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
- (c) credit union service organization;

may engage in Indiana in the making of consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage in:

- (a) taking assignments of consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions; and
- (b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this chapter in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not small loans (as defined in IC 24-4.5-7-104) or mortgage transactions:

- (a) The making of consumer loans.
- (b) Taking assignments of consumer loans.
- (c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this chapter is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this chapter is not required for each branch of a legal entity licensed under this chapter to perform an activity described in subsection (3).

(5) Except as otherwise provided in subsections (1) and (2), a separate license under IC 24-4.5-7 is required in order to regularly engage in Indiana in the following actions with respect to small loans (as defined in IC 24-4.5-7-104):

(a) The making of small loans (as defined in IC 24-4.5-7-104).

(b) Taking assignments of small loans (as defined in IC 24-4.5-7-104).

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans (as defined in IC 24-4.5-7-104).

A person that seeks licensure under IC 24-4.5-7 in order to regularly engage in Indiana in the actions set forth in this subsection shall apply to the department for that license in the form and manner prescribed by the department, and is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than small loans or mortgage transactions) under this section.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.32; P.L.122-1994, SEC.24; P.L.176-1996, SEC.7; P.L.23-2000, SEC.7; P.L.10-2006, SEC.6 and P.L.57-2006, SEC.6; P.L.35-2010, SEC.51; P.L.186-2015, SEC.16.

IC 24-4.5-3-502.1

Authority to make, take assignment of, or collect subordinate lien mortgage transactions; license required; exempt persons; registration with NMLSR; licensed mortgage loan originators; applications for licensure; director's authority to contract with NMLSR

Sec. 502.1. (1) A person that is a:

(a) depository institution;

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

(c) credit union service organization;

may engage in Indiana in the making of subordinate lien mortgage transactions without obtaining a license under this article.

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

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

(b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall

acquire and retain a license relating to subordinate lien mortgage transactions under this chapter in order to regularly engage in Indiana in the following actions with respect to subordinate lien mortgage transactions:

- (a) The making of subordinate lien mortgage loans.
 - (b) Taking assignments of subordinate lien mortgage loans.
 - (c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage loans.
- (4) Each:
- (a) creditor licensed by the department under this chapter to engage in subordinate lien mortgage transactions; and
 - (b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:
 - (i) employs a licensed mortgage loan originator; or
 - (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, or sponsored under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated with, a creditor licensed under this chapter to engage in subordinate lien mortgage transactions or an exempt entity described under subdivision (b) in the NMLSR in order to originate loans.

(5) Applicants for a license to engage in subordinate lien mortgage transactions must apply for a license under this chapter in a form prescribed by the director. Each form:

- (a) must contain content as set forth by rule, instruction, or procedure of the director; and
- (b) may be changed or updated as necessary by the director to carry out the purposes of this article.

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

- (a) collect and maintain records; and
- (b) process transaction fees or other fees;

related to licensees or other persons subject to this article.

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

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

As added by P.L.35-2010, SEC.52. Amended by P.L.103-2014, SEC.5; P.L.186-2015, SEC.17.

IC 24-4.5-3-502.2

Use of NMLSR in department's licensing system; reporting of

information to NMLSR; confidentiality; director's authority to enter agreements; waiver of privilege; processing fee; electronic records

Sec. 502.2. (1) Subject to subsection (6), the director may designate the NMLSR to serve as the sole entity responsible for:

- (a) processing applications and renewals for licenses required under section 502 of this chapter;
- (b) issuing unique identifiers for licensees and entities exempt from licensing under section 502 of this chapter; and
- (c) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under section 502 of this chapter.

(2) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director shall regularly report to the NMLSR significant or recurring violations of this article related to consumer loans that are not mortgage transactions, including small loans under IC 24-4.5-7.

(3) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director may report to the NMLSR complaints received regarding licensees under section 502 of this chapter in connection with consumer loans that are not mortgage transactions, including small loans under IC 24-4.5-7.

(4) The director may report to the NMLSR publicly adjudicated licensure actions against licensees under section 502 of this chapter.

(5) The director shall establish a process in which persons licensed in accordance with section 502 of this chapter may challenge information reported to the NMLSR by the department.

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

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

- (i) obtain information from the NMLSR unless the person is authorized to do so by statute;
- (ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or
- (iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

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

- (i) furnished by the director, the director's designee, or a licensee; or
- (ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to

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

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

- (i) to the director; or
- (ii) by the director;

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

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

- (i) obtain information;
- (ii) use information as evidence in a civil action or proceeding; or
- (iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(f) The requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(g) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the director.

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

- (i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or
- (ii) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privileged information or material held by the NMLSR, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

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

- (i) confidential supervisory information; or

(ii) any information or material described in subdivision (f); and that is inconsistent with subdivision (f) is superseded by this section.

(j) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person licensed in accordance with section 502 of this chapter and described in section 503(2) of this chapter and that is included in the NMLSR for access by the public.

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

(i) require review of; and

(ii) make available;

the audited financial statements of the NMLSR.

(7) Notwithstanding any other provision of law, any:

(a) application, renewal, or other form or document that:

(i) relates to licenses issued under section 502 of this chapter; and

(ii) is made or produced in an electronic format;

(b) document filed as an electronic record in a multistate automated repository established and operated for the licensing or registration of financial services entities and their employees; or

(c) electronic record filed through the NMLSR;

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

As added by P.L.137-2014, SEC.10.

IC 24-4.5-3-503

Applications for licenses; issuance; evidence of compliance; use of NMLSR; denial of application; right to hearing; fees; license not assignable or transferable

Sec. 503. (1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions. If, at any time, the information or record contained in:

(a) an application filed under section 502 of this chapter or section 502.1 of this chapter; or

(b) a renewal application filed under section 503.6 of this chapter;

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

(2) A license shall not be issued unless the department finds that the professional training and experience, financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

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

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

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section concerning a person licensed under section 502 of this chapter may include and for a person licensed under section 502.1 of this chapter must include:

(a) criminal background checks as described in section 503.1 of this chapter, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories as described in section 503.2 of this chapter;

(c) surety bond requirements as described in section 503.3 of this chapter;

(d) a review of licensure actions in Indiana and other states; and

(e) other background checks considered necessary by the director.

(5) For purposes of this section and in order to reduce the points of contact that the director may have to maintain under 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.

(6) 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.

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

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

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) Examination fees as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

(9) A fee as established by the department under IC 28-11-3-5 may be charged for each day a fee under subsection (8)(b) or (8)(c)

is delinquent.

(10) The licensee may deduct the fees required under subsection (8)(a) and (8)(c) from the filing fees paid under IC 24-4.5-6-203.

(11) Except in a transaction approved under section 515 of this chapter, a license issued under this section is not assignable or transferable.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.33; P.L.122-1994, SEC.25; P.L.80-1998, SEC.7; P.L.23-2000, SEC.8; P.L.10-2006, SEC.7 and P.L.57-2006, SEC.7; P.L.213-2007, SEC.10; P.L.217-2007, SEC.9; P.L.3-2008, SEC.174; P.L.90-2008, SEC.9; P.L.35-2010, SEC.53; P.L.89-2011, SEC.17; P.L.27-2012, SEC.19.

IC 24-4.5-3-503.1

National criminal history background check; fingerprints; payment of fees or costs; use of NMLSR

Sec. 503.1. (1) When the director requests a national criminal history background check under section 503(4)(a) of this chapter for an individual described in section 503(2) 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 503(3) of this chapter. The individual to whom the request is made shall pay any fees or costs associated with processing and evaluating the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

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

As added by P.L.35-2010, SEC.54.

IC 24-4.5-3-503.2

Credit reports; payment of fees or costs; demonstrated financial responsibility; considerations

Sec. 503.2. (1) If the director requests a credit report for an individual described in section 503(2) of this chapter, the individual to whom the request is made shall pay any fees or costs associated with procuring the report.

(2) The individual must submit personal history and experience information in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR or the director to obtain an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act

(15 U.S.C. 1681a(p)).

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

- (a) Bankruptcies filed within the last ten (10) years.
- (b) Current outstanding judgments, except judgments solely as a result of medical expenses.
- (c) Current outstanding tax liens or other government liens or filings.
- (d) Foreclosures within the past three (3) years.
- (e) A pattern of serious delinquent accounts within the past three (3) years.

As added by P.L.35-2010, SEC.55.

IC 24-4.5-3-503.3

Surety bond; requirements; amount; termination; liability; notices

Sec. 503.3. (1) Each:

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

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

(2) A surety bond must:

- (a) provide coverage for:
 - (i) a creditor described in subsection (1)(a); and
 - (ii) an exempt person described in subsection (1)(b);
- in an amount as prescribed in subsection (4);
- (b) be in a form as prescribed by the director;
- (c) be in effect:
 - (i) during the term of the creditor's license under this chapter; or
 - (ii) at any time during which the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) employs a licensed mortgage loan originator, or sponsors under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent;

as applicable;

(d) remain in effect during the two (2) years after:

- (i) the creditor ceases offering financial services to individuals in Indiana; or
- (ii) the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) ceases to employ a licensed mortgage loan originator, or ceases to sponsor under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan

originator as an independent agent, or to offer financial services to individuals in Indiana, whichever is later;

as applicable;

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

(i) the state; and

(ii) individuals who reside in Indiana when they agree to receive financial services from the creditor or the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a), as applicable;

(f) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and

(g) have payment conditioned upon:

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

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

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

(3) The director may adopt rules or guidance documents with respect to the requirements for surety bonds as necessary to accomplish the purposes of this article.

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

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

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

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

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

As added by P.L.35-2010, SEC.56. Amended by P.L.216-2013, SEC.10; P.L.103-2014, SEC.6.

IC 24-4.5-3-503.4

Use of NMLSR in department's licensing system for subordinate lien mortgage transactions; reporting of information to NMLSR; confidentiality; director's authority to enter agreements; waiver of privilege; processing fee; electronic records

Sec. 503.4. (1) Subject to subsection (6), the director shall designate the NMLSR to serve as the sole entity responsible for:

- (a) processing applications and renewals for licenses under section 502.1 of this chapter;
- (b) issuing unique identifiers for licensees under section 502.1 of this chapter and for entities exempt from licensing under this article that employ licensed mortgage loan originators; and
- (c) performing other services that the director determines necessary for the orderly administration of the department's licensing system under section 502.1 of this chapter.

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

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

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

(5) The director shall establish a process in which persons licensed in accordance with section 502.1 of this chapter may challenge information reported to the NMLSR by the department.

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

- (a) Information stored in the NMLSR is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:
 - (i) obtain information from the NMLSR unless the person is authorized to do so by statute;
 - (ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or
 - (iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.
- (b) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under IC 28-1-2-30 and that are:
 - (i) furnished by the director, the director's designee, or a

licensee; or

(ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under this article.

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

(i) to the director; or

(ii) by the director;

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

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding; if the information may be obtained from the director or the director's designee under any law.

(f) Except as otherwise provided in the federal Housing and Economic Recovery Act of 2008, Public Law 110-289, Section 1512, the requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

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

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

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

(ii) subpoena, discovery, or admission into evidence, in any

private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(i) Any provision of IC 5-14-3 that concerns the disclosure of:
(i) confidential supervisory information; or
(ii) any information or material described in subdivision (f); and that is inconsistent with subdivision (f) is superseded by this section.

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

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

- (i) require review of; and
- (ii) make available;

the audited financial statements of the NMLSR.

(7) Notwithstanding any other provision of law, any:

(a) application, renewal, or other form or document that:

- (i) relates to licenses issued under this article; and
- (ii) is made or produced in an electronic format;

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

(c) electronic record filed through the NMLSR;

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

As added by P.L.35-2010, SEC.57. Amended by P.L.27-2012, SEC.20.

IC 24-4.5-3-503.5

Repealed

(As added by P.L.176-1996, SEC.8. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-503.6

License renewal; revocation or suspension of license not renewed; reinstatement or appeal; correcting amendments

Sec. 503.6. (1) A license issued under this article must be renewed not later than December 31 of each calendar year. A license issued under section 502.1 of this chapter must be renewed through the NMLSR. The minimum standards for license renewal for a creditor

include the following:

(a) If the creditor is licensed in accordance with section 502 of this chapter, the creditor has:

- (i) paid all required fees for renewal of the license; and
- (ii) filed all reports and information required by the director.

(b) If the creditor is licensed under section 502.1 of this chapter, the following:

- (i) The creditor has continued to meet the surety bond requirement under section 503.3 of this chapter.
- (ii) The creditor has filed the creditor's call report in a manner that satisfies section 505(4) of this chapter.
- (iii) The creditor has paid all required fees for renewal of the license.
- (iv) The creditor and individuals described in section 503(2) of this chapter have certified to the department that they continue to meet all the standards for licensing established under section 503 of this chapter.
- (v) The creditor has filed all reports and information required by the director.
- (vi) The creditor has provided in the creditor's renewal application any information describing material changes in the information contained in the creditor's original application for licensure, or in any previous application, including any previous renewal application, along with any other information the director requires in order to evaluate the renewal of the license issued under this article.

(2) A license issued by the department authorizing a person to engage as a creditor in consumer loans or consumer credit sales under this article may be revoked or suspended by the department if the person fails to:

- (a) file any renewal form required by the department; or
- (b) pay any license renewal fee described under section 503(8)(c) of this chapter;

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

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

- (a) Pay all delinquent fees and apply for reinstatement of the license.
- (b) Appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

(4) If, at any time, the information or record contained in:

- (a) an original application for licensure filed under section 502 or 502.1 of this chapter; or
- (b) a renewal application filed under this section;

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

As added by P.L.35-2010, SEC.58. Amended by P.L.89-2011, SEC.18; P.L.27-2012, SEC.21.

IC 24-4.5-3-504

Suspension or revocation of license; order to show cause; order of suspension or revocation; relinquishment of license; preexisting contracts; emergency order for revocation

Sec. 504. (1) The department may issue to a person licensed to:

- (a) make consumer loans; or
- (b) engage in consumer credit sales that are mortgage transactions;

an order to show cause why the license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

(a) include:

- (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
- (ii) a description of the action contemplated by the department; and
- (iii) a statement of the facts or conduct supporting the issuance of the order; and

(b) be accompanied by a notice stating that the licensee is entitled to:

- (i) a reasonable opportunity to be heard; and
 - (ii) show the licensee's compliance with all lawful requirements for retention of the license;
- at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

- (i) this article or any applicable rule, order, or guidance document adopted or issued by the department; or
- (ii) any other state or federal laws, rules, or regulations applicable to consumer credit transactions;

(b) the licensee does not meet the licensing qualifications under section 503 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;

(d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or

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

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of:

- (a) the revocation or suspension;
- (b) if a suspension has been ordered, the duration of the suspension;
- (c) the procedure for appealing the revocation or suspension under IC 4-21.5-3-6; and
- (d) any other terms and conditions that apply to the revocation or suspension.

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

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

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

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

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.34; P.L.176-1996, SEC.9; P.L.80-1998, SEC.8; P.L.213-2007, SEC.11; P.L.217-2007, SEC.10; P.L.90-2008, SEC.10; P.L.35-2010, SEC.59; P.L.27-2012, SEC.22; P.L.186-2015, SEC.18.

IC 24-4.5-3-505

Record keeping; use of unique identifier on forms and documents; use of examination and regulatory software; submitting call reports to NMLSR; composite reports; notice to department of certain events or changes

Sec. 505. (1) Every creditor required to be licensed under this article shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the department to determine whether the licensee is complying with the provisions of this article. The record keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever located. The records pertaining to any loan shall be retained for two (2) years after making the final entry relating to the loan, but in the case of a revolving loan account the two (2) years is measured from the date of each entry. A person

licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person. A person that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that sponsors one (1) or more licensed mortgage loan originators as independent agents under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), shall:

- (a) cooperate with the department; and
- (b) provide 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 federal savings bank.

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

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

(4) Each:

- (a) creditor that is licensed by the department under this article and that engages in mortgage transactions; and
- (b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:
 - (i) employs one (1) or more licensed mortgage loan originators; or
 - (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), one (1) or more licensed mortgage loan originators as independent agents;

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

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

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

- (a) has a change in name, address, or principals;
- (b) opens a new branch, closes an existing branch, or relocates an existing branch;
- (c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;
not later than thirty (30) days after the date of the event described in this subsection.

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

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.35; P.L.122-1994, SEC.26; P.L.45-1995, SEC.12; P.L.172-1997, SEC.5; P.L.63-2001, SEC.3 and P.L.134-2001, SEC.3; P.L.213-2007, SEC.12; P.L.217-2007, SEC.11; P.L.90-2008, SEC.11; P.L.35-2010, SEC.60; P.L.27-2012, SEC.23; P.L.103-2014, SEC.7.

IC 24-4.5-3-505.5

Automated loan machines

Sec. 505.5. (a) As used in this section, "automated loan machine" means an unmanned machine that performs routine lending functions.

(b) A licensee may make loans through an automated loan machine at an offsite location if the licensee:

- (1) notifies the department in writing of the existence and location of the automated loan machine;
- (2) maintains at a location licensed or approved by the department the books, accounts, records, and files concerning transactions performed through the automated loan machine; and
- (3) posts at the offsite location where the automated loan machine is located the:
 - (A) address where the books, accounts, records and files are located; and
 - (B) telephone number at which the licensee may be contacted.

As added by P.L.172-1997, SEC.6.

IC 24-4.5-3-506

Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.14-1992, SEC.36; P.L.45-1995, SEC.13. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-507

Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.152-1986, SEC.65; P.L.7-1987, SEC.106; P.L.14-1992, SEC.37. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-508

Loan finance charge and origination fee for supervised loans

Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is two thousand dollars (\$2,000) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than four thousand dollars (\$4,000); or

(b) twenty-five percent (25%) per year on the unpaid balances of the principal.

(3) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance charge on all principal amounts within a specified range. A loan finance charge does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) The amounts of two thousand dollars (\$2,000) and four

thousand dollars (\$4,000) in subsection (2) and thirty dollars (\$30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amount of thirty dollars (\$30), the Reference Base Index to be used is the Index for October 1992. Notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amounts of two thousand dollars (\$2,000) and four thousand dollars (\$4,000), the Reference Base Index to be used is the Index for October 2012.

(7) With respect to a supervised loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not assess a loan origination fee under subsection (8) and:

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
 - (i) is contracted for by the parties; and
 - (ii) does not exceed the rate prescribed in subsection (2); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(8) Except as provided in subsection (7), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, the lender may contract for and receive a loan origination fee of not more than fifty dollars (\$50).

(9) The loan origination fee provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a supervised loan that is not secured by an interest in land, if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender, the following apply:

- (a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a loan origination fee on the new loan, or, in the case of a revolving loan, on the increased credit line.
- (b) The lender may not assess more than two (2) loan origination fees in any twelve (12) month period.

(11) In the case of a supervised loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the loan origination fee provided for in subsection (8).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.4; Acts 1982, P.L.149, SEC.4; Acts 1982, P.L.150, SEC.5; P.L.14-1992, SEC.38; P.L.122-1994, SEC.27; P.L.10-2006,

SEC.8 and P.L.57-2006, SEC.8; P.L.145-2008, SEC.28; P.L.91-2013, SEC.4.

IC 24-4.5-3-508.5

Repealed

(Repealed by Acts 1982, P.L.150, SEC.8.)

IC 24-4.5-3-509

Use of multiple agreements

Sec. 509. Use of Multiple Agreements. — With respect to a consumer loan, no lender may permit any person, or husband and wife, to become obligated in any way under more than one loan agreement with the lender or with a person related to the lender, with intent to obtain a higher rate of loan finance charge than would otherwise be permitted by the provisions on loan finance charge for supervised loans (IC 24-4.5-3-508) or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure (Part 3). The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for the purposes of the provisions on effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.39.

IC 24-4.5-3-510

Restrictions on interest in land as security

Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is four thousand dollars (\$4,000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of four thousand dollars (\$4,000) in subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2012.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.137-2014, SEC.11; P.L.186-2015, SEC.19.

IC 24-4.5-3-511

Regular schedule of payments; maximum loan term

Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is four thousand dollars (\$4,000) or less are payable in a single instalment or shall be scheduled to be payable in substantially equal instalments that are payable at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and:

- (a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars (\$300), or
- (b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars (\$300) or less.

(2) The amounts of three hundred dollars (\$300) and four thousand dollars (\$4,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used with respect to the amount of:

- (1) three hundred dollars (\$300) is the Index for October 1992; and
- (2) four thousand dollars (\$4,000) is the Index for October 2012.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.149, SEC.5; P.L.137-2014, SEC.12; P.L.186-2015, SEC.20.

IC 24-4.5-3-512

Conduct of business other than making loans

Sec. 512. Conduct of Business Other than Making Loans — A licensee may carry on other business at a location where he makes consumer loans unless he carries on other business for the purpose of evasion or violation of this Article.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-513

Application of other provisions

Sec. 513. Application of Other Provisions — Except as otherwise provided, all provisions of this Article applying to consumer loans apply to supervised loans.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-514

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-3-515

Change in control of creditor; application to department; timeframe for department's decision; conditions for approval; creditor's duty to report transfer of securities; director's discretion to require new license

Sec. 515. (1) As used in this section, "control" means possession of the power directly or indirectly to:

- (a) direct or cause the direction of the management or policies of a creditor, whether through the beneficial ownership of voting securities, by contract, or otherwise; or
- (b) vote at least twenty-five percent (25%) of the voting securities of a creditor, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(2) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any creditor unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

(3) The period for approval under subsection (2) may be extended:

(a) in the discretion of the director for an additional thirty (30) days; and

(b) not more than two (2) additional times for not more than forty-five (45) days each time if:

(i) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (4);

(ii) the director determines that any material information submitted is substantially inaccurate; or

(iii) the director has been unable to complete the investigation of the organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

(4) The department shall issue a notice approving the application only after the department is satisfied that both of the following apply:

(a) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the creditor in a legal and proper manner.

(b) The interests of the owners and creditors of the creditor and the interests of the public generally will not be jeopardized by the proposed change in control.

(5) The director may determine, in the director's discretion, that subsection (2) does not apply to a transaction if the director determines that the direct or beneficial ownership of the creditor will not change as a result of the transaction.

(6) The president or other chief executive officer of a creditor shall report to the director any transfer or sale of securities of the creditor that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the creditor. The report required by this subsection must be made not later than ten (10) days after the transfer of the securities on the books of the creditor.

(7) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a creditor licensed

under this article to apply for a new license under section 503 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.19. Amended by P.L.6-2012, SEC.167.

IC 24-4.5-3-601

Loans subject to article by agreement of parties

Sec. 601. Loans Subject to Article by Agreement of Parties — The parties to a loan other than a consumer loan may agree in writing signed by the parties that the loan is subject to the provisions of this Article applying to consumer loans. If the parties so agree, the loan is a consumer loan for the purposes of this Article.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-602

"Consumer related loan"; loan finance charge; licensing and annual notice to department not required

Sec. 602. (1) A "consumer related loan" is a loan in which the following apply:

- (a) The loan is made by a person who is not regularly engaged as a lender in credit transactions of the same kind.
- (b) The debtor is a person other than an organization.
- (c) The debt is primarily for a personal, family, or household purpose.
- (d) Either the debt is payable in installments or a loan finance charge is made.
- (e) Either:
 - (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars (\$53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 - (ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

(2) With respect to a consumer related loan, including one made pursuant to a revolving loan account, the parties may contract for the payment by the debtor of a loan finance charge not in excess of that permitted by the provisions on loan finance charge for consumer loans other than supervised loans (IC 24-4.5-3-201).

(3) A person engaged in consumer related loans is not required to comply with:

- (a) the licensing requirements set forth in section 503 of this chapter; or
- (b) IC 24-4.5-6-201 through IC 24-4.5-6-203.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.6; Acts 1982, P.L.149, SEC.6; Acts 1982, P.L.150,

SEC.6; P.L.14-1992, SEC.40; P.L.122-1994, SEC.28; P.L.27-2012, SEC.24; P.L.216-2013, SEC.11; P.L.137-2014, SEC.13.

IC 24-4.5-3-603

Applicability of other provisions to consumer related loans

Sec. 603. Applicability of Other Provisions to Consumer Related Loans — Except for the rate of the loan finance charge and the rights to prepay and to rebate upon prepayment, the provisions of Part 2 of this Chapter apply to a consumer related loan.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-604

Limitation on default charges in consumer related loans

Sec. 604. Limitation on Default Charges in Consumer Related Loans — (1) The agreement with respect to a consumer related loan may provide for only the following charges as a result of the debtor's default:

- (a) reasonable attorney's fees and reasonable expenses incurred in realizing on a security interest;
- (b) deferral charges not in excess of twenty-one percent (21%) per year of the amount deferred for the period of deferral; and
- (c) other charges that could have been made had the loan been a consumer loan.

(2) A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.7.

IC 24-4.5-3-605

Loan finance charge for other loans

Sec. 605. Loan Finance Charge for Other Loans — With respect to a loan other than a consumer loan or a consumer related loan, the parties may contract for the payment by the debtor of any loan finance charge.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-606

Required disclosures; liability on fraudulently cashed instruments

Sec. 606. (1) In addition to any disclosures otherwise provided by law, a lender soliciting loans using a negotiable check, facsimile, or other negotiable instrument that may be used by a consumer to activate a new loan shall disclose the following:

"This is a solicitation for a loan. Read the enclosed disclosures before signing this agreement."

This notice shall be printed in at least ten point type and shall appear conspicuously on the offer.

(2) If a negotiable check, a facsimile, or another instrument is stolen or incorrectly received by someone other than the intended payee and the instrument is fraudulently cashed, the consumer who was the intended payee is not liable for the loan obligation.

As added by P.L.163-1999, SEC.3.

IC 24-4.5-3-701

Requirement to provide property tax information in certain transactions

Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.

As added by P.L.64-2004, SEC.15.