

IC 24-7-7

Chapter 7. Enforcement; Adjustment in Maximum Fees

IC 24-7-7-1

Enforcement by department; civil penalty

Sec. 1. (a) The department shall enforce this article. To carry out this responsibility, the department may do the following:

- (1) Receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative.
- (2) Issue and enforce administrative orders under IC 4-21.5.
- (3) Counsel persons and groups on their rights and duties under this article.
- (4) Establish programs for the education of consumers with respect to rental purchase agreement practices and problems.
- (5) Make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public.
- (6) Adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to carry out this article.
- (7) Maintain more than one (1) office within Indiana.
- (8) Bring a civil action to restrain a person from violating this article and for other appropriate relief.

(b) If the department determines, after notice and an opportunity to be heard, that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

As added by P.L.254-1987, SEC.1. Amended by P.L.1-1990, SEC.245; P.L.138-1990, SEC.12; P.L.172-1997, SEC.12; P.L.35-2010, SEC.91; P.L.89-2011, SEC.24.

IC 24-7-7-2

Record keeping requirements; examinations and investigations; court order compelling compliance; confidentiality; record retention; department's investigatory and enforcement authority; examination of vendors

Sec. 2. (a) A person subject to this article shall make the books and records of the person reasonably available for inspection by the department or the department's representative. At a minimum, every lessor shall keep a record of all payments remitted by the lessee on a rental purchase agreement, including the following:

- (1) The name of the lessee.
- (2) The date of each transaction.
- (3) The total amount of each payment.
- (4) A breakdown of each payment reflecting:
 - (A) each type of charge; and
 - (B) the amount of each type of charge.

The method of maintaining this data is at the discretion of the lessor, if hard copies of the required data are readily available. The record keeping system of the lessor shall be made available in Indiana for examination. The director shall determine the sufficiency of the records and whether the lessor has made the required information reasonably available.

(b) In administering this article and in order to determine compliance with this article, the department or the department's representative may examine the books and records of persons subject to the article and may make investigations of persons necessary to determine compliance. For this purpose, the department may administer oaths or affirmations, and, upon the department's own motion or upon request of any party, may subpoena witnesses, compel their attendance, compel testimony, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(c) If the person's records are located outside Indiana, the person shall, at the person's option, either make them available to the department at a convenient location in Indiana, or pay the reasonable and necessary expenses for the department or the department's representative to examine them at the place where they are maintained. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(d) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to a court for an order compelling compliance.

(e) The department may not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings under this article.

(f) A lessor shall use generally accepted accounting principles and practices in keeping books and records so that the department or the department's representative may determine if the lessor is in compliance with this article or a rule adopted under this article.

(g) A lessor shall keep the lessor's books and records that pertain to a rental purchase agreement for at least two (2) years after the rental purchase agreement has terminated.

(h) To discover violations of this article or to secure information necessary for the enforcement of this article, the department may investigate:

(1) any person subject to this article; and

(2) any person that the department suspects to be operating in violation of this article.

The department has all investigatory and enforcement authority under this article that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

(i) If a lessor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the lessor and be subject to the department's routine examination procedures, the person that provides the service to the lessor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any lessor that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

As added by P.L.254-1987, SEC.1. Amended by P.L.138-1990, SEC.13; P.L.172-1997, SEC.13; P.L.35-2010, SEC.92; P.L.137-2014, SEC.20; P.L.5-2015, SEC.55; P.L.186-2015, SEC.27.

IC 24-7-7-3

Assurance of discontinuance of misconduct

Sec. 3. If it is claimed that a person has engaged in conduct subject to an order by the department or by a court under this chapter, the department may accept an assurance in writing that the person will not engage in the conduct in the future. If a person giving an assurance of discontinuance fails to comply with its terms, the assurance is evidence that before the assurance the person engaged in the conduct described in the assurance.

As added by P.L.254-1987, SEC.1. Amended by P.L.172-1997, SEC.14.

IC 24-7-7-4

Repealed

(Repealed by P.L.138-1990, SEC.15.)