

HOUSE BILL No. 1239

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5-1-201.

Synopsis: Territorial application of the UCCC. Amends the provision in the Uniform Consumer Credit Code (UCCC) concerning the territorial application of the UCCC to provide that a sale, lease, or loan transaction occurs in Indiana if the creditor, a person acting on behalf of the creditor, or an assignee of the creditor's rights under the transaction has advertised, solicited, offered, made, brokered, arranged, or guaranteed sales, leases, or loans in Indiana by any means, regardless of whether the creditor, the person acting on behalf of the creditor, or the assignee of the creditor has a physical location in Indiana. (Existing law does not: (1) include the offering, making, brokering, arranging, or guaranteeing of a consumer sale, lease, or loan transaction in Indiana as among the specified actions that qualify a consumer sale, lease, or loan transaction as occurring in Indiana; (2) specify that a sale, lease, or loan transaction occurs in Indiana if the assignee of a creditor's rights under the transaction takes the specified actions in Indiana; or (3) specify that the creditor, a person acting on behalf of the creditor, or an assignee of the creditor need not have a physical location in Indiana for a consumer sale, lease, or loan to be considered to occur in Indiana.)

Effective: July 1, 2020.

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January 7, 2020, read first time and referred to Committee on Financial Institutions.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1239

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

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

1 SECTION 1. IC 24-4.5-1-201, AS AMENDED BY P.L.216-2013,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 201. (1) Except as otherwise provided in this
4 section, this article applies to sales, leases, and loans made in this state
5 and to modifications, including refinancings, consolidations, and
6 deferrals, made in this state, of sales, leases, and loans, wherever made.
7 For purposes of this article, the following apply:
8 (a) A sale or modification of a sale agreement is made in this state
9 if the buyer's agreement or offer to purchase or to modify is
10 received by the seller or a person acting on behalf of the seller in
11 this state.
12 (b) A lease or modification of a lease agreement is made in this
13 state if the lessee's agreement or offer to lease or to modify is
14 received by the lessor or a person acting on behalf of the lessor in
15 this state.
16 (c) A loan or modification of a loan agreement is made in this
17 state if a writing signed by the debtor and evidencing the debt is



1 received by the lender or a person acting on behalf of the lender
2 in this state.

3 (d) Except as provided in subdivisions (e) and (f), a sale, lease, or
4 loan transaction occurs in Indiana if:

5 (i) a consumer who is a resident of Indiana enters into a
6 consumer sale, lease, or loan transaction with a creditor or a
7 person acting on behalf of the creditor in another state; and

8 (ii) the creditor, ~~or~~ the person acting on behalf of the creditor,
9 **or an assignee to whom the creditor has assigned the**
10 **creditor's rights under the transaction** has advertised, ~~or~~
11 solicited, **offered, made, brokered, arranged, or guaranteed**
12 sales, leases, or loans in Indiana by any means, including by
13 mail, brochure, telephone, print, radio, television, the Internet,
14 or electronic means, **regardless of whether the creditor, the**
15 **person acting on behalf of the creditor, or the assignee of**
16 **the creditor has a physical location in Indiana.**

17 (e) A sale, lease, or loan transaction does not occur in Indiana if
18 a consumer who is a resident of Indiana enters into a consumer
19 sale, lease, or loan transaction secured by an interest in land
20 located outside Indiana.

21 (f) A sale, lease, or loan transaction does not occur in Indiana if
22 a consumer who is a resident of Indiana enters into a consumer
23 sale, lease, or loan transaction at a creditor's place of business in
24 another state.

25 For purposes of subdivisions (a) through (c), an offer is received by a
26 creditor or a person acting on behalf of the creditor in Indiana if the
27 offer is physically delivered, or otherwise transmitted or
28 communicated, to a person who has actual or apparent authority to act
29 for the creditor or the person acting on behalf of the creditor in Indiana,
30 regardless of whether approval, acceptance, or ratification by any other
31 agent or representative of the creditor or the person acting on behalf of
32 the creditor in another state is necessary to give legal consequence to
33 the consumer credit transaction.

34 (2) IC 24-4.5-5-101 through IC 24-4.5-5-108 apply to actions or
35 other proceedings brought in this state to enforce rights arising from
36 consumer credit sales, consumer leases, or consumer loans, or
37 extortionate extensions of credit, wherever made.

38 (3) Except as provided in subsection (2), a sale, lease, loan, or
39 modification thereof, made in another state to a person who was not a
40 resident of this state when the sale, lease, loan, or modification was
41 made is valid and enforceable in this state according to its terms to the
42 extent that it is valid and enforceable under the laws of the state



- 1 applicable to the transaction.
- 2 (4) For the purposes of this article, the residence of a buyer, lessee,
3 or debtor is the address given by the buyer, lessee, or debtor as the
4 buyer's, lessee's, or debtor's residence in any writing or electronic
5 communication made by the buyer, lessee, or debtor in connection with
6 a credit transaction. Until the buyer, lessee, or debtor notifies the
7 creditor or the person acting on behalf of the creditor of a new or
8 different address, the given address is presumed to be unchanged.
- 9 (5) Notwithstanding other provisions of this section:
- 10 (a) except as provided in subsection (2), this article does not apply
11 if the buyer, lessee, or debtor is not a resident of this state at the
12 time of a credit transaction and the parties then agree that the law
13 of the buyer's, lessee's, or debtor's residence applies; and
14 (b) this article applies if the buyer, lessee, or debtor is a resident
15 of this state at the time of a credit transaction and the parties then
16 agree that the law of this state applies.
- 17 (6) Except as provided in subsection (5), the following agreements
18 by a buyer, lessee, or debtor are invalid with respect to consumer credit
19 sales, consumer leases, consumer loans, or modifications thereof, to
20 which this article applies:
- 21 (a) An agreement that the law of another state shall apply.
22 (b) An agreement that the buyer, lessee, or debtor consents to the
23 jurisdiction of another state.
24 (c) An agreement that fixes venue.
- 25 (7) The following provisions of this article specify the applicable
26 law governing certain cases:
- 27 (a) IC 24-4.5-6-102 (applicability of the provisions on powers and
28 functions of the department).
29 (b) IC 24-4.5-6-201 (applicability of the provisions on notification
30 and fees).
- 31 (8) If a creditor or a person acting on behalf of the creditor has
32 violated the provisions of this article that apply to the authority to make
33 consumer loans (IC 24-4.5-3-502), the loan is void and the debtor is not
34 obligated to pay either the principal or loan finance charge, as set forth
35 in IC 24-4.5-5-202.

