

HOUSE BILL No. 1447

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.4; IC 24-4.5; IC 24-7; IC 24-12; IC 28-1; IC 28-5-1-5; IC 28-7; IC 28-8-4; IC 28-10-1-1; IC 28-14-1-3.

Synopsis: Financial institutions and consumer credit. Makes various changes to the statutes concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code (UCCC); (3) rental purchase agreements; (4) debt management companies; (5) banks; (6) credit unions; (7) pawnbrokers; and (8) money transmitters. Repeals a provision in the statute concerning rental purchase agreements that specifies that any up-front payment made by the lessee: (1) must be treated as an initial rental payment; (2) is subject to the disclosure requirements under the statute; and (3) may be in a sum larger than a regular rental payment. Repeals a provision in the UCCC that provides that civil proceeding advance payment transactions (CPAP transactions) are subject to the UCCC. Strikes all provisions concerning CPAP transactions from the UCCC. Repeals provisions in the UCCC that define certain terms relating to CPAP transactions. Moves language in the UCCC applicable to the licensing of civil proceeding advance payment providers to the existing statute concerning civil proceeding advance payments and makes conforming amendments.

Effective: July 1, 2019.

Burton

January 15, 2019, read first time and referred to Committee on Financial Institutions.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1447

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

1 SECTION 1. IC 24-4.4-1-102, AS AMENDED BY P.L.69-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 102. (1) This article shall be liberally construed
4 and applied to promote its underlying purposes and policies.

5 (2) The underlying purposes and policies of this article are:
6 (a) to permit and encourage the development of fair and
7 economically sound first lien mortgage lending practices; and
8 (b) to conform the regulation of first lien mortgage lending
9 practices to applicable state and federal laws, rules, regulations,
10 policies, and guidance.

11 (3) A reference to a requirement imposed by this article includes
12 reference to a related rule of the department adopted under this article.

13 (4) A reference to a federal law in this article is a reference to the
14 law as in effect December 31, ~~2017~~. **2018**.

15 SECTION 2. IC 24-4.4-2-402, AS AMENDED BY P.L.27-2012,
16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2019]: Sec. 402. (1) The department shall receive and act on



1 all applications for licenses to engage in first lien mortgage
 2 transactions. Applications must be made as prescribed by the director.
 3 If, at any time, the information or record contained in:

4 (a) an application filed under this section; or

5 (b) a renewal application filed under section 403 of this chapter;
 6 is or becomes inaccurate or incomplete in a material respect, the
 7 applicant shall promptly file a correcting amendment with the
 8 department.

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

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

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

16 (c) if known, each person directly or indirectly owning of record
 17 or owning beneficially at least ten percent (10%) of the
 18 outstanding shares of any class of equity security of the applicant;
 19 are such as to warrant belief that the business will be operated honestly
 20 and fairly within the purposes of this article.

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

23 (a) the time of application;

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

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

26 (4) Evidence of compliance with this section must include:

27 (a) criminal background checks, as described in section 402.1 of
 28 this chapter, including a national criminal history background
 29 check (as defined in IC 10-13-3-12) by the Federal Bureau of
 30 Investigation, for any individual described in subsection (2);

31 (b) credit histories as described in section 402.2 of this chapter;

32 (c) surety bond requirements as described in section 402.3 of this
 33 chapter;

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

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

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

42 (6) The department may deny an application under this section if the



1 director of the department determines that the application was
 2 submitted for the benefit of, or on behalf of, a person who does not
 3 qualify for a license.

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

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

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

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

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

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

18 (10) Except in a transaction approved under section 406 of this
 19 chapter, a license issued under this section is not assignable or
 20 transferable.

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

24 **(a) the person provides to the department a statement from**
 25 **the department of state revenue that the person's tax warrant**
 26 **has been satisfied; or**

27 **(b) the department receives a notice from the commissioner of**
 28 **the department of state revenue under IC 6-8.1-8-2(k).**

29 SECTION 3. IC 24-4.4-2-402.3, AS AMENDED BY P.L.69-2018,
 30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2019]: Sec. 402.3. (1) Each:

32 (a) creditor; and

33 (b) person that is exempt (either under this article or under
 34 IC 24-4.5) from licensing to engage in mortgage loans and that:

35 (i) employs a licensed mortgage loan originator; or

36 (ii) sponsors under an exclusive written agreement, as
 37 permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage
 38 loan originator as an independent agent;

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

40 (2) A surety bond must:

41 (a) provide coverage for:

42 (i) a creditor; or



- 1 (ii) a person that is exempt from licensing and that employs a
 2 licensed mortgage loan originator, or that sponsors under an
 3 exclusive written agreement (as permitted by
 4 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator
 5 as an independent agent;
 6 in an amount as prescribed in subsection (4);
 7 (b) be in a form prescribed by the director;
 8 (c) be in effect:
 9 (i) during the term of the creditor's license; or
 10 (ii) at any time during which the person exempt from licensing
 11 employs a licensed mortgage loan originator or sponsors under
 12 an exclusive written agreement (as permitted by
 13 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator
 14 as an independent agent;
 15 as applicable;
 16 (d) remain in effect during the two (2) years after:
 17 (i) the creditor ceases offering financial services to individuals
 18 in Indiana; or
 19 (ii) the person exempt from licensing ceases to employ a
 20 licensed mortgage loan originator, or ceases to sponsor under
 21 an exclusive written agreement (as permitted by
 22 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator
 23 as an independent agent, or to offer financial services to
 24 individuals in Indiana, whichever is later;
 25 as applicable;
 26 (e) be payable to the department for the benefit of:
 27 (i) the state; and
 28 (ii) individuals who reside in Indiana when they agree to
 29 receive financial services from the creditor or the person
 30 exempt from licensing, as applicable;
 31 (f) be issued by a bonding, surety, or insurance company
 32 authorized to do business in Indiana and rated at least "A-" by at
 33 least one (1) nationally recognized investment rating service; and
 34 (g) have payment conditioned upon:
 35 (i) the creditor's or any of the creditor's licensed mortgage loan
 36 originators'; or
 37 (ii) the exempt person's or any of the exempt person's licensed
 38 mortgage loan originators';
 39 noncompliance with or violation of this chapter, 750 IAC 9, or
 40 other federal or state laws or regulations applicable to mortgage
 41 lending.
 42 (3) The director may adopt rules or guidance documents with



1 respect to the requirements for a surety bond as necessary to
2 accomplish the purposes of this article.

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

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

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

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

23 (8) Notices required under this section must be **made** in writing and
24 ~~delivered by certified mail, return receipt requested and postage~~
25 ~~prepaid, or by overnight delivery using a nationally recognized carrier.~~
26 **submitted through the NMLSR or any other electronic registration**
27 **system that may be approved by the director.**

28 SECTION 4. IC 24-4.4-2-402.4, AS AMENDED BY P.L.69-2018,
29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2019]: Sec. 402.4. (1) Subject to subsection (6), the director
31 shall designate the NMLSR to serve as the sole entity responsible for:

- 32 (a) processing applications and renewals for mortgage licenses;
- 33 (b) issuing unique identifiers for licensees and entities exempt
34 from licensing that employ a licensed mortgage loan originator
35 under this article; and
- 36 (c) performing other services that the director determines are
37 necessary for the orderly administration of the department's
38 mortgage licensing system.

39 (2) Subject to the confidentiality provisions contained in IC 5-14-3,
40 this section, and IC 28-1-2-30, the director ~~shall~~ **may** regularly report
41 significant or recurring violations of this article to the NMLSR.

42 (3) Subject to the confidentiality provisions contained in IC 5-14-3,



1 this section, and IC 28-1-2-30, the director may report complaints
2 received regarding mortgage licensees to the NMLSR.

3 (4) The director may report publicly adjudicated licensure actions
4 against a licensee to the NMLSR.

5 (5) The director shall establish a process in which licensees may
6 challenge information reported to the NMLSR by the department.

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

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

12 (i) obtain information from the NMLSR, unless the person is
13 authorized to do so by statute;

14 (ii) initiate any civil action based on information obtained
15 from the NMLSR if the information is not otherwise available
16 to the person under any other state law; or

17 (iii) initiate any civil action based on information obtained
18 from the NMLSR if the person could not have initiated the
19 action based on information otherwise available to the person
20 under any other state law.

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

24 (i) furnished by the director, the director's designee, or a
25 licensee; or

26 (ii) otherwise obtained by the NMLSR;

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

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

34 (i) to the director; or

35 (ii) by the director;

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

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

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

41 (i) obtain information;

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



- 1 or
2 (iii) use information to initiate a civil action or proceeding;
3 if the information may be obtained from the director or the
4 director's designee under any law.
- 5 (f) Except as otherwise provided in the federal Housing and
6 Economic Recovery Act of 2008 (Public Law 110-289, Section
7 1512), the requirements under any federal law or IC 5-14-3
8 regarding the privacy or confidentiality of any information or
9 material provided to the NMLSR, and any privilege arising under
10 federal or state law, including the rules of any federal or state
11 court, with respect to the information or material, continue to
12 apply to the information or material after the information or
13 material has been disclosed to the NMLSR. The information and
14 material may be shared with all state and federal regulatory
15 officials with mortgage industry oversight authority without the
16 loss of privilege or the loss of confidentiality protections provided
17 by federal law or IC 5-14-3.
- 18 (g) For purposes of this section, the director may enter agreements
19 or sharing arrangements with other governmental agencies, the
20 Conference of State Bank Supervisors, the American Association
21 of Residential Mortgage Regulators, or other associations
22 representing governmental agencies, as established by rule or
23 order of the director.
- 24 (h) Information or material that is subject to a privilege or
25 confidentiality under subdivision (f) is not subject to:
- 26 (i) disclosure under any federal or state law governing the
27 disclosure to the public of information held by an officer or an
28 agency of the federal government or the respective state; or
29 (ii) subpoena, discovery, or admission into evidence in any
30 private civil action or administrative process, unless with
31 respect to any privilege held by the NMLSR with respect to
32 the information or material, the person to whom the
33 information or material pertains waives, in whole or in part, in
34 the discretion of the person, that privilege.
- 35 (i) Any provision of IC 5-14-3 that concerns the disclosure of:
36 (i) confidential supervisory information; or
37 (ii) any information or material described in subdivision (f);
38 and that is inconsistent with subdivision (f) is superseded by this
39 section.
- 40 (j) This section does not apply with respect to information or
41 material that concerns the employment history of, and publicly
42 adjudicated disciplinary and enforcement actions against, a



1 person described in section 402(2) of this chapter and that is
 2 included in the NMLSR for access by the public.

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

7 (i) require review of; and

8 (ii) make available;

9 the audited financial statements of the NMLSR.

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

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

12 (i) relates to mortgage licenses issued by the department; and

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

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

17 (c) electronic record filed through the NMLSR;

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

20 SECTION 5. IC 24-4.4-2-404.1, AS AMENDED BY P.L.27-2012,
 21 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2019]: Sec. 404.1. (1) If the director determines that a **current**
 23 **or former** director, an officer, or ~~an employee~~ **a manager** of a creditor:

24 (a) has committed a violation of a statute, a rule, a final cease and
 25 desist order, any condition imposed in writing by the director in
 26 connection with the granting of any application or other request
 27 by the creditor, or any written agreement between the creditor and
 28 the director or the department;

29 (b) has committed fraudulent or unconscionable conduct; or

30 (c) has been convicted of a felony under the laws of Indiana or
 31 any other jurisdiction;

32 the director, subject to subsection (2), may issue and serve upon the
 33 officer, director, or ~~employee~~ **manager** a notice of the director's intent
 34 to issue an order removing the person from the person's office or
 35 employment, an order prohibiting any participation by the person in the
 36 conduct of the affairs of any creditor, or an order both removing the
 37 person and prohibiting the person's participation.

38 (2) A violation, practice, or breach specified in subsection (1) is
 39 subject to the authority of the director under ~~subsection~~ **subsections (1)**
 40 **and (3)** if the director finds any of the following:

41 (a) The interests of the creditor's customers could be seriously
 42 prejudiced by reason of the violation or practice.



1 (b) The violation, practice, or breach involves ~~personal~~ **an act of**
 2 **fraud, dishonesty, theft, breach of trust, money laundering, or**
 3 **the wrongful taking of property** on the part of the officer,
 4 director, or **employee manager** involved.

5 (c) The violation, practice, or breach demonstrates a willful or
 6 continuing disregard by the officer, director, or **employee**
 7 **manager** for state and federal laws and regulations, and for the
 8 consumer protections contained in this article.

9 (3) A person who has been convicted of a felony under the laws of
 10 Indiana or any other jurisdiction may not serve as an officer, a director,
 11 or ~~an employee~~ **a manager** of a creditor, or serve in any similar
 12 capacity, unless the person obtains the written consent of the director.

13 (4) A creditor that willfully permits a person to serve the creditor in
 14 violation of subsection (3) is subject to a civil penalty of five hundred
 15 dollars (\$500) for each day the violation continues.

16 (5) A creditor shall give the department written notice of the
 17 resignation, discharge, or termination of an employee, independent
 18 contractor, or agent against whom allegations were made that accused
 19 the employee, independent contractor, or agent of:

20 (a) violating this article or other laws, regulations, rules, or
 21 industry standards of conduct applicable to first lien mortgage
 22 transactions; or

23 (b) fraud, dishonesty, theft, **breach of trust, money laundering,**
 24 or the wrongful taking of property.

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

28 SECTION 6. IC 24-4.4-2-404.2, AS AMENDED BY P.L.69-2018,
 29 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2019]: Sec. 404.2. (1) A notice issued under this chapter must:

31 (a) be in writing;

32 (b) contain a statement of the facts constituting the alleged
 33 practice, violation, or breach;

34 (c) state the facts alleged in support of the violation, practice, or
 35 breach;

36 (d) state the director's intention to enter an order under section
 37 404.4(1) of this chapter;

38 (e) be delivered to the board of directors of the creditor;

39 (f) be delivered to the officer, director, or **employee manager**
 40 concerned;

41 (g) specify the procedures that must be followed to initiate a
 42 hearing to contest the facts alleged; and



1 (h) if the director suspends or prohibits an officer, a director, or
 2 ~~an employee a manager~~ of the creditor from participating in the
 3 affairs of the creditor, as described in subsection (5), include a
 4 statement of the suspension or prohibition.

5 (2) If a hearing is requested not later than ten (10) days after service
 6 of the written notice, the department shall hold a hearing concerning
 7 the alleged practice, violation, or breach. The hearing shall be held not
 8 later than forty-five (45) days after receipt of the request. The
 9 department, based on the evidence presented at the hearing, shall enter
 10 a final order under section 404.4 of this chapter.

11 (3) If no hearing is requested within the time specified in subsection
 12 (2), the director may proceed to issue a final order under section 404.4
 13 of this chapter on the basis of the facts set forth in the written notice.

14 (4) An officer, a director, or ~~employee a manager~~ who is removed
 15 from a position under a removal order that has become final may not
 16 participate in the conduct of the affairs of any mortgage licensee
 17 without the approval of the director.

18 (5) The director may, for the protection of the creditor or the
 19 interests of its customers, suspend from office or prohibit from
 20 participation in the affairs of the creditor an officer, a director, or ~~an~~
 21 ~~employee a manager~~ of a creditor who is the subject of a written notice
 22 served by the director under section 404.1(1) of this chapter. A
 23 suspension or prohibition under this subsection becomes effective upon
 24 service of the notice under section 404.1(1) of this chapter. Unless
 25 stayed by a court in a proceeding authorized by subsection (6), the
 26 suspension or prohibition remains in effect pending completion of the
 27 proceedings related to the notice served under section 404.1(1) of this
 28 chapter and until the effective date of an order entered by the
 29 department under subsection (2) or the director under subsection (3).
 30 Copies of the notice shall also be served upon the creditor or affiliate
 31 of which the person is an officer, a director, or ~~an employee: a~~
 32 **manager.**

33 (6) Not more than fifteen (15) days after an officer, a director, or ~~an~~
 34 ~~employee a manager~~ has been suspended from office or prohibited
 35 from participation in the conduct of the affairs of the creditor or
 36 affiliate under subsection (5), the officer, director, or ~~employee~~
 37 **manager** may apply to a court having jurisdiction for a stay of the
 38 suspension or prohibition pending completion of the proceedings
 39 related to the written notice served under section 404.1(1) of this
 40 chapter, and the court may stay the suspension or prohibition.

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



1 SECTION 7. IC 24-4.4-2-404.3, AS ADDED BY P.L.35-2010,
 2 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2019]: Sec. 404.3. If the director enters into a consent to a
 4 final order under section 404.4 of this chapter with a creditor, a
 5 director, an officer, or ~~an employee~~, **a manager**, the director is not
 6 required to issue and serve a notice of charges upon the creditor,
 7 director, ~~or officer~~, **or manager** under section 404.1 of this chapter. A
 8 consent agreement may be negotiated and entered into before or after
 9 the issuance of a notice of charges. The director shall provide a copy
 10 of the consent order to the board of directors of the creditor.

11 SECTION 8. IC 24-4.4-2-404.4, AS ADDED BY P.L.35-2010,
 12 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2019]: Sec. 404.4. (1) If, after a hearing described in section
 14 404.2(2) of this chapter, the department finds that the conditions
 15 specified in section 404.1 of this chapter have been established, the
 16 department may issue a final order. If a hearing is not requested within
 17 the time specified in section 404.2(2) of this chapter, the director may
 18 issue a final order on the basis of the facts set forth in the written notice
 19 served under section 404.1(1) of this chapter.

20 (2) Unless the director has entered into a consent agreement
 21 described in section 404.3 of this chapter, a final order must include
 22 separately stated findings of fact and conclusions of law for all aspects
 23 of the order.

24 (3) In a final order under this section, the department or the director,
 25 as appropriate, may order one (1) or more of the following with respect
 26 to an officer, a director, or ~~an employee~~ **a manager** of a creditor:

27 (a) The removal of the officer, director, or ~~employee~~ **manager**
 28 from the person's office, position, or employment.

29 (b) A prohibition against any participation by the officer, director,
 30 or ~~employee~~ **manager** in the conduct of the affairs of any creditor.

31 (c) If the subject of the order is an officer or a director of a
 32 creditor, and subject to section 404.6 of this chapter, the
 33 imposition of a civil penalty not to exceed fifteen thousand dollars
 34 (\$15,000) for each practice, violation, or act that:

35 (i) is described in section 404.1 of this chapter; and

36 (ii) is found to exist by the department or the director.

37 (4) A final order shall be issued in writing not later than ninety (90)
 38 days after conclusion of a hearing held under section 404.2(2) of this
 39 chapter, unless this period is waived or extended with the written
 40 consent of all parties or for good cause shown.

41 (5) If the officer, director, or ~~employee~~ **manager** does not appear
 42 individually or by an authorized representative at a hearing held under



1 section 404.2(2) of this chapter, the officer, director, or **employee**
 2 **manager** is considered to have consented to the issuance of a final
 3 order.

4 (6) The remedies provided in this chapter are in addition to other
 5 remedies contained in this article.

6 SECTION 9. IC 24-4.5-1-102, AS AMENDED BY P.L.69-2018,
 7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 102. (1) This article shall be liberally construed
 9 and applied to promote its underlying purposes and policies.

10 (2) The underlying purposes and policies of this article are:

11 (a) to simplify, clarify, and modernize the law governing retail
 12 installment sales, consumer credit, small loans, and usury;

13 (b) to provide rate ceilings to assure an adequate supply of credit
 14 to consumers;

15 (c) to further consumer understanding of the terms of credit
 16 transactions and to foster competition among suppliers of
 17 consumer credit so that consumers may obtain credit at
 18 reasonable cost;

19 (d) to protect consumer buyers, lessees, and borrowers against
 20 unfair practices by some suppliers of consumer credit, having due
 21 regard for the interests of legitimate and scrupulous creditors;

22 (e) to permit and encourage the development of fair and
 23 economically sound consumer credit practices;

24 (f) to conform the regulation of consumer credit transactions to
 25 the policies of the Consumer Credit Protection Act (15 U.S.C.
 26 1601 et seq.) and to applicable state and federal laws, rules,
 27 regulations, policies, and guidance; and

28 (g) to make uniform the law, including administrative rules
 29 among the various jurisdictions.

30 (3) A reference to a requirement imposed by this article includes
 31 reference to a related rule or guidance of the department adopted
 32 pursuant to this article.

33 (4) A reference to a federal law in this article is a reference to the
 34 law as in effect December 31, ~~2017~~. **2018**.

35 (5) This article applies to a transaction if the director determines
 36 that the transaction:

37 (a) is in substance a disguised consumer credit transaction; or

38 (b) involves the application of subterfuge for the purpose of
 39 avoiding this article.

40 A determination by the director under this subsection must be in
 41 writing and shall be delivered to all parties to the transaction.
 42 IC 4-21.5-3 applies to a determination made under this subsection.



1 (6) The authority of this article remains in effect, whether a licensee,
 2 an individual, or a person subject to this article acts or claims to act
 3 under any licensing or registration law of this state, or claims to act
 4 without such authority.

5 (7) A violation of a state or federal law, regulation, or rule
 6 applicable to consumer credit transactions is a violation of this article.

7 (8) The department may enforce penalty provisions set forth in 15
 8 U.S.C. 1640 for violations of disclosure requirements applicable to
 9 mortgage transactions.

10 SECTION 10. IC 24-4.5-1-201.1 IS REPEALED [EFFECTIVE
 11 JULY 1, 2019]. ~~Sec. 201.1. CPAP transactions, as defined in section~~
 12 ~~301.5 of this chapter, are subject to this article and to IC 24-12.~~

13 SECTION 11. IC 24-4.5-1-202, AS AMENDED BY P.L.186-2015,
 14 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2019]: Sec. 202. (a) As used in this section, "balloon
 16 payment", with respect to a mortgage transaction, means any payment
 17 that:

- 18 (1) the creditor requires the debtor to make at any time during the
- 19 term of the mortgage;
- 20 (2) represents the entire amount of the outstanding balance with
- 21 respect to the mortgage; and
- 22 (3) the entire amount of which is due as of a specified date or at
- 23 the end of a specified period;

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

32 (b) This article does not apply to the following:

- 33 (1) Extensions of credit to **or by a** government or governmental
- 34 agencies or instrumentalities.
- 35 (2) The sale of insurance by an insurer, except as otherwise
- 36 provided in the chapter on insurance (IC 24-4.5-4).
- 37 (3) Transactions under public utility, municipal utility, or
- 38 common carrier tariffs if a subdivision or agency of this state or
- 39 of the United States regulates the charges for the services
- 40 involved, the charges for delayed payment, and any discount
- 41 allowed for early payment.
- 42 (4) The rates and charges and the disclosure of rates and charges



- 1 of a licensed pawnbroker established in accordance with a statute
 2 or ordinance concerning these matters.
- 3 (5) A sale of goods, services, or an interest in land in which the
 4 goods, services, or interest in land are purchased primarily for a
 5 purpose other than a personal, family, or household purpose.
- 6 (6) A loan in which the debt is incurred primarily for a purpose
 7 other than a personal, family, or household purpose.
- 8 (7) An extension of credit primarily for a business, a commercial,
 9 or an agricultural purpose.
- 10 (8) An installment agreement for the purchase of home fuels in
 11 which a finance charge is not imposed.
- 12 (9) Loans made, insured, or guaranteed under a program
 13 authorized by Title IV of the Higher Education Act of 1965 (20
 14 U.S.C. 1070 et seq.).
- 15 (10) Transactions in securities or commodities accounts in which
 16 credit is extended by a broker-dealer registered with the Securities
 17 and Exchange Commission or the Commodity Futures Trading
 18 Commission.
- 19 (11) Except for IC 24-4.5-3-502.1(4), IC 24-4.5-3-503.3,
 20 IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a loan made:
 21 (A) in compliance with the requirements of; and
 22 (B) by a community development corporation (as defined in
 23 IC 4-4-28-2) acting as a subrecipient of funds from;
 24 the Indiana housing and community development authority
 25 established by IC 5-20-1-3.
- 26 (12) Except for IC 24-4.5-3-502.1(4), IC 24-4.5-3-503.3,
 27 IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien
 28 mortgage transaction made by an entity that exclusively uses
 29 funds provided by the United States Department of Housing and
 30 Urban Development under Title 1 of the Housing and Community
 31 Development Act of 1974, Public Law 93-383, as amended (42
 32 U.S.C. 5301 et seq.).
- 33 (13) The United States, any state or local government, or any
 34 agency or instrumentality of any governmental entity, including
 35 United States government sponsored enterprises **and state**
 36 **educational institutions (as defined in IC 21-7-13-32). For**
 37 **purposes of this subdivision, an "instrumentality" of a**
 38 **governmental entity includes a foundation, a corporate or**
 39 **nonprofit subsidiary, or an affiliate (as defined in**
 40 **IC 24-4.5-1-301.5(1)) of the governmental entity.**
- 41 (14) A bona fide nonprofit organization not operating in a
 42 commercial context, as determined by the director, if the



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- following criteria are satisfied:
- (A) Subject to clause (B), the organization originates only one (1) or both of the following types of mortgage transactions:
 - (i) Zero (0) interest first lien mortgage transactions.
 - (ii) Zero (0) interest subordinate lien mortgage transactions.
 - (B) The organization does not require, under the terms of the mortgage or otherwise, balloon payments with respect to the mortgage transactions described in clause (A).
 - (C) The organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
 - (D) The organization's primary purpose is to serve the public by helping low income individuals and families build, repair, and purchase housing.
 - (E) The organization uses only:
 - (i) unpaid volunteers; or
 - (ii) employees whose compensation is not based on the number or size of any mortgage transactions that the employees originate;
 to originate the mortgage transactions described in clause (A).
 - (F) The organization does not charge loan origination fees in connection with the mortgage transactions described in clause (A).

(15) A bona fide nonprofit organization (as defined in section 301.5 of this chapter) if the following criteria are satisfied:

- (A) For each calendar year that the organization seeks the exemption provided by this subdivision, the organization certifies, not later than December 31 of the preceding calendar year and on a form prescribed by the director and accompanied by such documentation as required by the director, that the organization is a bona fide nonprofit organization (as defined in section 301.5(45) of this chapter).
- (B) The director determines that the organization originates only mortgage transactions that are favorable to the debtor. For purposes of this clause, a mortgage transaction is favorable to the debtor if the director determines that the terms of the mortgage transaction are consistent with terms of mortgage transactions made in a public or charitable context, rather than in a commercial context.

SECTION 12. IC 24-4.5-1-301.5, AS AMENDED BY P.L.69-2018, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 301.5. In addition to definitions appearing in subsequent chapters in this article, the following definitions apply



1 throughout this article:

2 (1) "Affiliate", with respect to any person subject to this article,
3 means a person that, directly or indirectly, through one (1) or more
4 intermediaries:

- 5 (a) controls;
6 (b) is controlled by; or
7 (c) is under common control with;
8 the person subject to this article.

9 (2) "Agreement" means the bargain of the parties in fact as found in
10 their language or by implication from other circumstances, including
11 course of dealing or usage of trade or course of performance.

12 (3) "Agricultural purpose" means a purpose related to the
13 production, harvest, exhibition, marketing, transportation, processing,
14 or manufacture of agricultural products by a natural person who
15 cultivates, plants, propagates, or nurtures the agricultural products.
16 "Agricultural products" includes agricultural, horticultural, viticultural,
17 and dairy products, livestock, wildlife, poultry, bees, forest products,
18 fish and shellfish, and any and all products raised or produced on farms
19 and any processed or manufactured products thereof.

20 (4) "Average daily balance" means the sum of each of the daily
21 balances in a billing cycle divided by the number of days in the billing
22 cycle, and if the billing cycle is a month, the creditor may elect to treat
23 the number of days in each billing cycle as thirty (30).

24 (5) "Closing costs" with respect to a subordinate lien mortgage
25 transaction includes:

- 26 (a) fees or premiums for title examination, title insurance, or
27 similar purposes, including surveys;
28 (b) fees for preparation of a deed, settlement statement, or other
29 documents;
30 (c) escrows for future payments of taxes and insurance;
31 (d) fees for notarizing deeds and other documents;
32 (e) appraisal fees; and
33 (f) fees for credit reports.

34 (6) "Conspicuous" refers to a term or clause when it is so written
35 that a reasonable person against whom it is to operate ought to have
36 noticed it.

37 (7) "Consumer credit" means credit offered or extended to a
38 consumer primarily for a personal, family, or household purpose.

39 (8) "Consumer credit sale" is a sale of goods, services, or an interest
40 in land in which:

- 41 (a) credit is granted by a person who regularly engages as a seller
42 in credit transactions of the same kind;



- 1 (b) the buyer is a person other than an organization;
 2 (c) the goods, services, or interest in land are purchased primarily
 3 for a personal, family, or household purpose;
 4 (d) either the debt is payable in installments or a credit service
 5 charge is made; and
 6 (e) with respect to a sale of goods or services, either:
 7 (i) the amount of credit extended, the written credit limit, or
 8 the initial advance does not exceed the exempt threshold
 9 amount, as adjusted in accordance with the annual adjustment
 10 of the exempt threshold amount, specified in Regulation Z (12
 11 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 12 (ii) the debt is secured by personal property used or expected
 13 to be used as the principal dwelling of the buyer.

14 Unless the sale is made subject to this article by agreement
 15 (IC 24-4.5-2-601), "consumer credit sale" does not include a sale
 16 in which the seller allows the buyer to purchase goods or services
 17 pursuant to a lender credit card or similar arrangement or, except
 18 as provided with respect to disclosure (IC 24-4.5-2-301), debtors'
 19 remedies (IC 24-4.5-5-201), providing payoff amounts
 20 (IC 24-4.5-2-209), and powers and functions of the department
 21 (IC 24-4.5-6), a sale of an interest in land which is a first lien
 22 mortgage transaction.

23 (9) "Consumer loan" means a loan made by a person regularly
 24 engaged in the business of making loans in which:

- 25 (a) the debtor is a person other than an organization;
 26 (b) the debt is primarily for a personal, family, or household
 27 purpose;
 28 (c) either the debt is payable in installments or a loan finance
 29 charge is made; and
 30 (d) either:
 31 (i) the amount of credit extended, the written credit limit, or
 32 the initial advance does not exceed the exempt threshold
 33 amount, as adjusted in accordance with the annual adjustment
 34 of the exempt threshold amount, specified in Regulation Z (12
 35 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 36 (ii) the debt is secured by an interest in land or by personal
 37 property used or expected to be used as the principal dwelling
 38 of the debtor.

39 Except as described in IC 24-4.5-3-105, the term does not include a
 40 first lien mortgage transaction.

41 (10) "Credit" means the right granted by a creditor to a debtor to
 42 defer payment of debt or to incur debt and defer its payment.



- 1 (11) "Creditor" means a person:
 2 (a) who regularly engages in the extension of consumer credit that
 3 is subject to a credit service charge or loan finance charge, as
 4 applicable, or is payable by written agreement in more than four
 5 (4) installments (not including a down payment); and
 6 (b) to whom the obligation is initially payable, either on the face
 7 of the note or contract, or by agreement when there is not a note
 8 or contract.
- 9 (12) "Depository institution" has the meaning set forth in the
 10 Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any
 11 credit union.
- 12 (13) "Director" means the director of the department of financial
 13 institutions or the director's designee.
- 14 (14) "Dwelling" means a residential structure that contains one (1)
 15 to four (4) units, regardless of whether the structure is attached to real
 16 property. The term includes an individual:
 17 (a) condominium unit;
 18 (b) cooperative unit;
 19 (c) mobile home; or
 20 (d) trailer;
 21 that is used as a residence.
- 22 (15) "Earnings" means compensation paid or payable for personal
 23 services, whether denominated as wages, salary, commission, bonus,
 24 or otherwise, and includes periodic payments under a pension or
 25 retirement program.
- 26 (16) "Employee" means an individual who is paid wages or other
 27 compensation by an employer required under federal income tax law
 28 to file Form W-2 on behalf of the individual.
- 29 (17) "Federal banking agencies" means the Board of Governors of
 30 the Federal Reserve System, the Office of the Comptroller of the
 31 Currency, the National Credit Union Administration, and the Federal
 32 Deposit Insurance Corporation.
- 33 (18) "First lien mortgage transaction" means:
 34 (a) a consumer loan; or
 35 (b) a consumer credit sale;
 36 that is or will be used by the debtor primarily for personal, family, or
 37 household purposes and that is secured by a mortgage or a land
 38 contract (or another consensual security interest equivalent to a
 39 mortgage or a land contract) that constitutes a first lien on a dwelling
 40 or on residential real estate upon which a dwelling is constructed or
 41 intended to be constructed.
- 42 (19) "Immediate family member" means a spouse, child, sibling,



1 parent, grandparent, or grandchild. The term includes stepparents,
2 stepchildren, stepsiblings, and adoptive relationships.

3 (20) "Individual" means a natural person.

4 (21) "Lender credit card or similar arrangement" means an
5 arrangement or loan agreement, other than a seller credit card, pursuant
6 to which a lender gives a debtor the privilege of using a credit card,
7 letter of credit, or other credit confirmation or identification in
8 transactions out of which debt arises:

9 (a) by the lender's honoring a draft or similar order for the
10 payment of money drawn or accepted by the debtor;

11 (b) by the lender's payment or agreement to pay the debtor's
12 obligations; or

13 (c) by the lender's purchase from the obligee of the debtor's
14 obligations.

15 (22) "Licensee" means a person licensed as a creditor under this
16 article.

17 (23) "Loan brokerage business" means any activity in which a
18 person, in return for any consideration from any source, procures,
19 attempts to procure, or assists in procuring, a mortgage transaction
20 from a third party or any other person, whether or not the person
21 seeking the mortgage transaction actually obtains the mortgage
22 transaction.

23 (24) "Loan processor or underwriter" means an individual who
24 performs clerical or support duties as an employee at the direction of,
25 and subject to the supervision and instruction of, a person licensed to
26 engage in mortgage transactions or a person exempt from licensing. For
27 purposes of this subsection, the term "clerical or support duties" may
28 include, after the receipt of an application, the following:

29 (a) The receipt, collection, distribution, and analysis of
30 information common for the processing or underwriting of a
31 mortgage transaction.

32 (b) The communication with a consumer to obtain the information
33 necessary for the processing or underwriting of a loan, to the
34 extent that the communication does not include:

35 (i) offering or negotiating loan rates or terms; or

36 (ii) counseling consumers about mortgage transaction rates or
37 terms.

38 An individual engaging solely in loan processor or underwriter
39 activities shall not represent to the public through advertising or other
40 means of communicating or providing information, including the use
41 of business cards, stationery, brochures, signs, rate lists, or other
42 promotional items, that the individual can or will perform any of the



1 activities of a mortgage loan originator.

2 (25) "Mortgage loan originator" means an individual who, for
3 compensation or gain, or in the expectation of compensation or gain,
4 regularly engages in taking a mortgage transaction application or in
5 offering or negotiating the terms of a mortgage transaction that either
6 is made under this article or under IC 24-4.4 or is made by an employee
7 of a person licensed to engage in mortgage transactions or by an
8 employee of a person that is exempt from licensing, while the employee
9 is engaging in the loan brokerage business. The term does not include
10 the following:

11 (a) An individual engaged solely as a loan processor or
12 underwriter as long as the individual works exclusively as an
13 employee of a person licensed to engage in mortgage transactions
14 or as an employee of a person exempt from licensing.

15 (b) Unless the person or entity is compensated by:

16 (i) a creditor;

17 (ii) a loan broker;

18 (iii) another mortgage loan originator; or

19 (iv) any agent of the creditor, loan broker, or other mortgage
20 loan originator described in items (i) through (iii);

21 a person or entity that only performs real estate brokerage
22 activities and is licensed or registered in accordance with
23 applicable state law.

24 (c) A person solely involved in extensions of credit relating to
25 timeshare plans (as defined in 11 U.S.C. 101(53D)).

26 (26) "Mortgage servicer" means the last person to whom a
27 mortgagor or the mortgagor's successor in interest has been instructed
28 by a mortgagee to send payments on a loan secured by a mortgage.

29 (27) "Mortgage transaction" means:

30 (a) a consumer loan; or

31 (b) a consumer credit sale;

32 that is or will be used by the debtor primarily for personal, family, or
33 household purposes and that is secured by a mortgage or a land
34 contract (or another consensual security interest equivalent to a
35 mortgage or a land contract) on a dwelling or on residential real estate
36 upon which a dwelling is constructed or intended to be constructed.

37 (28) "Nationwide Multistate Licensing System and Registry" (or
38 "Nationwide Mortgage Licensing System and Registry" or "NMLSR")
39 means a multistate licensing system owned and operated by the State
40 Regulatory Registry, LLC, or by any successor or affiliated entity, for
41 the licensing and registration of creditors, mortgage loan originators,
42 and other persons in the mortgage or financial services industries. The



1 term includes any other name or acronym that may be assigned to the
 2 system by the State Regulatory Registry, LLC, or by any successor or
 3 affiliated entity.

4 (29) "Nontraditional mortgage product" means any mortgage
 5 product other than a thirty (30) year fixed rate mortgage.

6 (30) "Official fees" means:

7 (a) fees and charges prescribed by law which actually are or will
 8 be paid to public officials for determining the existence of or for
 9 perfecting, releasing, or satisfying a security interest related to a
 10 consumer credit sale, consumer lease, or consumer loan; or

11 (b) premiums payable for insurance in lieu of perfecting a security
 12 interest otherwise required by the creditor in connection with the
 13 sale, lease, or loan, if the premium does not exceed the fees and
 14 charges described in subdivision (a) that would otherwise be
 15 payable.

16 (31) "Organization" means a corporation, a government or
 17 governmental subdivision, an agency, a trust, an estate, a partnership,
 18 a limited liability company, a cooperative, an association, a joint
 19 venture, an unincorporated organization, or any other entity, however
 20 organized.

21 (32) "Payable in installments" means that payment is required or
 22 permitted by written agreement to be made in more than four (4)
 23 installments not including a down payment.

24 (33) "Person" includes an individual or an organization.

25 (34) "Person related to" with respect to an individual means:

26 (a) the spouse of the individual;

27 (b) a brother, brother-in-law, sister, or sister-in-law of the
 28 individual;

29 (c) an ancestor or lineal descendants of the individual or the
 30 individual's spouse; and

31 (d) any other relative, by blood or marriage, of the individual or
 32 the individual's spouse who shares the same home with the
 33 individual.

34 (35) "Person related to" with respect to an organization means:

35 (a) a person directly or indirectly controlling, controlled by, or
 36 under common control with the organization;

37 (b) a director, an executive officer, or a manager of the
 38 organization or a person performing similar functions with respect
 39 to the organization or to a person related to the organization;

40 (c) the spouse of a person related to the organization; and

41 (d) a relative by blood or marriage of a person related to the
 42 organization who shares the same home with the person.



1 (36) "Presumed" or "presumption" means that the trier of fact must
 2 find the existence of the fact presumed, unless and until evidence is
 3 introduced that would support a finding of its nonexistence.

4 (37) "Real estate brokerage activity" means any activity that
 5 involves offering or providing real estate brokerage services to the
 6 public, including the following:

7 (a) Acting as a real estate agent or real estate broker for a buyer,
 8 seller, lessor, or lessee of real property.

9 (b) Bringing together parties interested in the sale, purchase,
 10 lease, rental, or exchange of real property.

11 (c) Negotiating, on behalf of any party, any part of a contract
 12 relating to the sale, purchase, lease, rental, or exchange of real
 13 property (other than in connection with providing financing with
 14 respect to the sale, purchase, lease, rental, or exchange of real
 15 property).

16 (d) Engaging in any activity for which a person is required to be
 17 registered or licensed as a real estate agent or real estate broker
 18 under any applicable law.

19 (e) Offering to engage in any activity, or act in any capacity,
 20 described in this subsection.

21 (38) "Registered mortgage loan originator" means any individual
 22 who:

23 (a) meets the definition of mortgage loan originator and is an
 24 employee of:

25 (i) a depository institution;

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

28 (iii) an institution regulated by the Farm Credit
 29 Administration; and

30 (b) is registered with, and maintains a unique identifier through,
 31 the NMLSR.

32 (39) "Regularly engaged", with respect to a person who extends
 33 consumer credit, refers to a person who:

34 (a) extended consumer credit:

35 (i) more than twenty-five (25) times; or

36 (ii) more than five (5) times for a mortgage transaction secured
 37 by a dwelling;

38 in the preceding calendar year; or

39 (b) extends or will extend consumer credit:

40 (i) more than twenty-five (25) times; or

41 (ii) more than five (5) times for a mortgage transaction secured
 42 by a dwelling;



- 1 in the current calendar year, if the person did not meet the
 2 numerical standards described in subdivision (a) in the preceding
 3 calendar year.
- 4 (40) "Residential real estate" means any real property that is located
 5 in Indiana and on which there is located or intended to be constructed
 6 a dwelling.
- 7 (41) "Seller credit card" means an arrangement that gives to a buyer
 8 or lessee the privilege of using a credit card, letter of credit, or other
 9 credit confirmation or identification for the purpose of purchasing or
 10 leasing goods or services from that person, a person related to that
 11 person, or from that person and any other person. The term includes a
 12 card that is issued by a person, that is in the name of the seller, and that
 13 can be used by the buyer or lessee only for purchases or leases at
 14 locations of the named seller.
- 15 (42) "Subordinate lien mortgage transaction" means:
 16 (a) a consumer loan; or
 17 (b) a consumer credit sale;
 18 that is or will be used by the debtor primarily for personal, family, or
 19 household purposes and that is secured by a mortgage or a land
 20 contract (or another consensual security interest equivalent to a
 21 mortgage or a land contract) that constitutes a subordinate lien on a
 22 dwelling or on residential real estate upon which a dwelling is
 23 constructed or intended to be constructed.
- 24 (43) "Unique identifier" means a number or other identifier assigned
 25 by protocols established by the NMLSR.
- 26 (44) "Land contract" means a contract for the sale of real estate in
 27 which the seller of the real estate retains legal title to the real estate
 28 until the total contract price is paid by the buyer.
- 29 (45) "Bona fide nonprofit organization" means an organization that
 30 does the following, as determined by the director under criteria
 31 established by the director:
 32 (a) Maintains tax exempt status under Section 501(c)(3) of the
 33 Internal Revenue Code.
 34 (b) Promotes affordable housing or provides home ownership
 35 education or similar services.
 36 (c) Conducts the organization's activities in a manner that serves
 37 public or charitable purposes.
 38 (d) Receives funding and revenue and charges fees in a manner
 39 that does not encourage the organization or the organization's
 40 employees to act other than in the best interests of the
 41 organization's clients.
 42 (e) Compensates the organization's employees in a manner that



1 does not encourage employees to act other than in the best
2 interests of the organization's clients.

3 (f) Provides to, or identifies for, debtors mortgage transactions
4 with terms that are favorable to the debtor (as described in section
5 202(b)(15) of this chapter) and comparable to mortgage
6 transactions and housing assistance provided under government
7 housing assistance programs.

8 (g) Maintains certification by the United States Department of
9 Housing and Urban Development or employs counselors who are
10 certified by the Indiana housing and community development
11 authority.

12 (46) "Civil proceeding advance payment transaction", or "CPAP
13 transaction", has the meaning set forth in IC 24-4.5-3-110.

14 (47) "Civil proceeding", with respect to a CPAP transaction, has the
15 meaning set forth in IC 24-4.5-3-110.5.

16 (48) "Civil proceeding advance payment contract", or "CPAP
17 contract", has the meaning set forth in IC 24-4.5-3-110.5.

18 (49) "Civil proceeding advance payment provider", or "CPAP
19 provider", has the meaning set forth in IC 24-4.5-3-110.5.

20 (50) "Consumer claimant", with respect to a CPAP transaction, has
21 the meaning set forth in IC 24-4.5-3-110.5.

22 (51) "Funded amount", with respect to a CPAP transaction, has the
23 meaning set forth in IC 24-4.5-3-110.5.

24 SECTION 13. IC 24-4.5-3-110 IS REPEALED [EFFECTIVE JULY
25 1, 2019]. Sec. 110. (1) "Civil proceeding advance payment
26 transaction", or "CPAP transaction", means a nonrecourse transaction
27 in which a CPAP provider provides a funded amount to a consumer
28 claimant to use for any purpose other than prosecuting the consumer
29 claimant's civil proceeding; if the repayment of the funded amount is:

30 (a) required only if the consumer claimant prevails in the civil
31 proceeding; and

32 (b) sourced from the proceeds of the civil proceeding, whether the
33 proceeds result from a judgment, a settlement, or some other
34 resolution.

35 (2) The term includes a transaction:

36 (a) that is termed or described as:

37 (i) a purchase; or

38 (ii) an assignment of an interest in a consumer claimant's civil
39 proceeding; or in the proceeds of a consumer claimant's civil
40 proceeding;

41 by the CPAP provider; or

42 (b) with respect to which the CPAP provider sets forth in a CPAP



1 contract, an agreement by:

2 (i) the CPAP provider to purchase from the consumer
3 claimant; or

4 (ii) the consumer claimant to assign to the CPAP provider;
5 a contingent right to receive a share of the potential proceeds of
6 the consumer claimant's civil proceeding; whether the proceeds
7 result from a judgment, a settlement, or some other resolution.

8 (3) Notwithstanding section 202(1)(i) of this chapter and section
9 502(6) of this chapter, a CPAP transaction is not a consumer loan.

10 SECTION 14. IC 24-4.5-3-110.5 IS REPEALED [EFFECTIVE
11 JULY 1, 2019]. Sec. 110.5. (1) "Civil proceeding", with respect to a
12 CPAP transaction, means:

13 (a) a civil action;

14 (b) a mediation, an arbitration, or any other alternative dispute
15 resolution proceeding; or

16 (c) an administrative proceeding before:

17 (i) an agency or instrumentality of the state; or

18 (ii) a political subdivision, or an agency or instrumentality of
19 a political subdivision, of the state;

20 that is filed in, or is under the jurisdiction of, a court with jurisdiction
21 in Indiana, a tribunal in Indiana, or an agency or instrumentality
22 described in subdivision (c) in Indiana. The term includes all
23 proceedings arising out of or relating to the proceeding, including any
24 proceedings on appeal or remand, and any enforcement, ancillary, or
25 parallel proceedings.

26 (2) "Civil proceeding advance payment contract", or "CPAP
27 contract", means a contract for a CPAP transaction that a CPAP
28 provider enters into, or offers to enter into, with a consumer claimant.

29 (3) "Civil proceeding advance payment provider", or "CPAP
30 provider", means a person that:

31 (a) enters into, or offers to enter into, a CPAP transaction with a
32 consumer claimant in connection with a civil proceeding; and

33 (b) notwithstanding section 110(3) of this chapter, and subject to
34 IC 24-12-9, is licensed with the department in accordance with
35 this chapter and IC 24-12-9.

36 (4) "Consumer claimant", with respect to a CPAP transaction,
37 means an individual:

38 (a) who is or may become a plaintiff, a claimant, or a demandant
39 in a civil proceeding; and

40 (b) who:

41 (i) is offered a CPAP transaction by a CPAP provider; or

42 (ii) enters into a CPAP transaction with a CPAP provider;



1 regardless of whether the individual is a resident of Indiana.

2 (5) "Funded amount", with respect to a CPAP transaction, means the
3 amount of money:

4 (a) that is provided to the consumer claimant by the CPAP
5 provider; and

6 (b) the repayment of which is:

7 (i) required only if the consumer claimant prevails in the
8 consumer claimant's civil proceeding; and

9 (ii) sourced from the proceeds of the civil proceeding, whether
10 the proceeds result from a judgment, a settlement, or some
11 other resolution;

12 regardless of the term used by the CPAP provider in the CPAP contract
13 to identify the amount.

14 SECTION 15. IC 24-4.5-3-202, AS AMENDED BY P.L.69-2018,
15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2019]: Sec. 202. (1) In addition to the loan finance charge
17 permitted by this chapter, a lender may contract for and receive the
18 following additional charges in connection with a consumer loan:

19 (a) Official fees and taxes.

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

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

23 (i) be reasonable in amount;

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

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

28 (d) With respect to a debt secured by an interest in land, the
29 following closing costs, if they are bona fide, reasonable in
30 amount, and not for the purpose of circumvention or evasion of
31 this article:

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

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

36 (iii) Notary and credit report fees.

37 (iv) Amounts required to be paid into escrow or trustee
38 accounts if the amounts would not otherwise be included in
39 the loan finance charge.

40 (v) Appraisal fees.

41 (e) Notwithstanding provisions of the Consumer Credit Protection
42 Act (15 U.S.C. 1601 et seq.) concerning disclosure, charges for



1 other benefits, including insurance, conferred on the debtor, if the
 2 benefits are of value to the debtor and if the charges are
 3 reasonable in relation to the benefits, and are excluded as
 4 permissible additional charges from the loan finance charge. With
 5 respect to any other additional charge not specifically provided
 6 for in this section to be a permitted charge under this subsection,
 7 the creditor must submit a written explanation of the charge to the
 8 department indicating how the charge would be assessed and the
 9 value or benefit to the debtor. Supporting documents may be
 10 required by the department. The department shall determine
 11 whether the charge would be of benefit to the debtor and is
 12 reasonable in relation to the benefits.

13 (f) A charge not to exceed twenty-five dollars (\$25) for each
 14 returned payment by a bank or other depository institution of a
 15 dishonored check, electronic funds transfer, negotiable order of
 16 withdrawal, or share draft issued by the debtor.

17 (g) With respect to a revolving loan account, a fee not to exceed
 18 twenty-five dollars (\$25) in each billing cycle during which the
 19 balance due under the revolving loan account exceeds by more
 20 than one hundred dollars (\$100) the maximum credit limit for the
 21 account established by the lender.

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

- 24 (i) Two percent (2%) of the amount of the transaction.
- 25 (ii) Ten dollars (\$10).

26 (i) A charge not to exceed twenty-five dollars (\$25) for a
 27 skip-a-payment service, subject to the following:

28 (i) At the time of use of the service, the consumer must be
 29 given written notice of the amount of the charge and must
 30 acknowledge the amount in writing, including by electronic
 31 signature.

32 (ii) A charge for a skip-a-payment service may not be assessed
 33 with respect to a consumer loan subject to the provisions on
 34 rebate upon prepayment that are set forth in section 210 of this
 35 chapter.

36 (iii) A charge for a skip-a-payment service may not be
 37 assessed with respect to any payment for which a delinquency
 38 charge has been assessed under section 203.5 of this chapter.

39 (j) A charge not to exceed ten dollars (\$10) for an optional
 40 expedited payment service, subject to the following:

41 (i) The charge may be assessed only upon request by the
 42 consumer to use the expedited payment service.



- 1 (ii) The amount of the charge must be disclosed to the
 2 consumer at the time of the consumer's request to use the
 3 expedited payment service.
- 4 (iii) The consumer must be informed that the consumer retains
 5 the option to make a payment by traditional means.
- 6 (iv) The charge may not be established in advance, through
 7 any agreement with the consumer, as the expected method of
 8 payment.
- 9 (v) The charge may not be assessed with respect to any
 10 payment for which a delinquency charge has been assessed
 11 under section 203.5 of this chapter.
- 12 **(k)** This subdivision applies to a CPAP transaction offered or
 13 entered into after June 30, 2016. With respect to a CPAP
 14 transaction, a CPAP provider may impose the following charges
 15 and fees:
- 16 (i) A fee calculated at an annual rate that does not exceed
 17 thirty-six percent (36%) of the funded amount.
- 18 (ii) A servicing charge calculated at an annual rate that does
 19 not exceed seven percent (7%) of the funded amount.
- 20 (iii) If the funded amount of the CPAP transaction is less than
 21 five thousand dollars (\$5,000), a one (1) time charge that does
 22 not exceed two hundred fifty dollars (\$250) for obtaining and
 23 preparing documents.
- 24 (iv) If the funded amount of the CPAP transaction is at least
 25 five thousand dollars (\$5,000), a one (1) time charge that does
 26 not exceed five hundred dollars (\$500) for obtaining and
 27 preparing documents.
- 28 A CPAP provider may not assess, or collect from the consumer
 29 claimant, any other fee or charge in connection with a CPAP
 30 transaction, including any finance charges under section 201 or
 31 508 of this chapter.
- 32 **(l)** **(k)** A charge for a GAP agreement, subject to subsection (3).
- 33 **(m)** **(l)** With respect to consumer loans made by a person exempt
 34 from licensing under IC 24-4.5-3-502(1), a charge for a debt
 35 cancellation agreement, subject to the following:
- 36 (i) A debt cancellation agreement or debt cancellation
 37 coverage may not be required by the lender, and that fact must
 38 be disclosed in writing to the consumer.
- 39 (ii) The charge for the initial term of coverage under the debt
 40 cancellation agreement must be disclosed in writing to the
 41 consumer. The charge may be disclosed on a unit-cost basis
 42 only in the case of revolving loan accounts, closed-end credit



1 transactions if the request for coverage is made by mail or
 2 telephone, and closed-end credit transactions if the debt
 3 cancellation agreement limits the total amount of indebtedness
 4 eligible for coverage.

5 (iii) If the term of coverage under the debt cancellation
 6 agreement is less than the term of the consumer loan, the term
 7 of coverage under the debt cancellation agreement must be
 8 disclosed in writing to the consumer.

9 (iv) The consumer must sign or initial an affirmative written
 10 request for coverage after receiving all required disclosures.

11 (v) If debt cancellation coverage for two (2) or more events is
 12 provided for in a single charge under a debt cancellation
 13 agreement, the entire charge may be excluded from the loan
 14 finance charge and imposed as an additional charge under this
 15 section if at least one (1) of the events is the loss of life, health,
 16 or income.

17 The additional charges provided for in subdivisions (f) through ~~(k)~~ (j)
 18 are not subject to refund or rebate.

19 (2) An additional charge may be made for insurance in connection
 20 with the loan, other than insurance protecting the lender against the
 21 debtor's default or other credit loss:

22 (a) with respect to insurance against loss of or damage to property
 23 or against liability, if the lender furnishes a clear and specific
 24 statement in writing to the debtor, setting forth the cost of the
 25 insurance if obtained from or through the lender and stating that
 26 the debtor may choose the person, subject to the lender's
 27 reasonable approval, through whom the insurance is to be
 28 obtained; and

29 (b) with respect to consumer credit insurance providing life,
 30 accident, unemployment or other loss of income, or health
 31 coverage, if the insurance coverage is not a factor in the approval
 32 by the lender of the extension of credit and this fact is clearly
 33 disclosed in writing to the debtor, and if, in order to obtain the
 34 insurance in connection with the extension of credit, the debtor
 35 gives specific affirmative written indication of the desire to do so
 36 after written disclosure of the cost of the insurance.

37 (3) An additional charge may be made for a GAP agreement, subject
 38 to the following:

39 (a) A GAP agreement or GAP coverage may not be required by
 40 the lender, and that fact must be disclosed in writing to the
 41 consumer.

42 (b) The charge for the initial term of coverage under the GAP



1 agreement must be disclosed in writing to the consumer. The
2 charge may be disclosed on a unit-cost basis only in the case of
3 the following transactions:

4 (i) Revolving loan accounts.

5 (ii) Closed-end credit transactions, if the request for coverage
6 is made by mail or telephone.

7 (iii) Closed-end credit transactions, if the GAP agreement
8 limits the total amount of indebtedness eligible for coverage.

9 (c) If the term of coverage under the GAP agreement is less than
10 the term of the consumer loan, the term of coverage under the
11 GAP agreement must be disclosed in writing to the consumer.

12 (d) The consumer must sign or initial an affirmative written
13 request for coverage after receiving all required disclosures.

14 (e) The GAP agreement must include the following:

15 (i) In the case of GAP coverage for a new motor vehicle, the
16 manufacturer's suggested retail price (MSRP) for the motor
17 vehicle.

18 (ii) In the case of GAP coverage for a used motor vehicle, the
19 National Automobile Dealers Association (NADA) average
20 retail value for the motor vehicle.

21 (iii) The name of the financing entity taking assignment of the
22 agreement, as applicable.

23 (iv) The name and address of the consumer.

24 (v) The name of the lender selling the agreement.

25 (vi) Information advising the consumer that the consumer may
26 be able to obtain similar coverage from the consumer's primary
27 insurance carrier.

28 (vii) A coverage provision that includes a minimum deductible
29 of five hundred dollars (\$500).

30 (viii) A provision providing for a minimum thirty (30) day trial
31 period.

32 (ix) In the case of a consumer loan made with respect to a
33 motor vehicle, a provision excluding the sale of GAP coverage
34 if the amount financed under the consumer loan (not including
35 the cost of the GAP agreement, the cost of any credit
36 insurance, and the cost of any warranties or service
37 agreements) is less than eighty percent (80%) of the
38 manufacturer's suggested retail price (MSRP), in the case of a
39 new motor vehicle, or **of** the National Automobile Dealers
40 Association (NADA) average retail value, in the case of a used
41 motor vehicle.

42 (x) In the case of a GAP agreement in which the charge for the



- 1 agreement exceeds four hundred dollars (\$400), specific
 2 instructions that may be used by the consumer to cancel the
 3 agreement and obtain a refund of the unearned GAP charge
 4 before prepayment in full, in accordance with the procedures,
 5 and subject to the conditions, set forth in subdivision (f).
 6 (f) If the charge for the GAP agreement exceeds four hundred
 7 dollars (\$400), the consumer is entitled to cancel the agreement
 8 and obtain a refund of the unearned GAP charge before
 9 prepayment in full. Refunds of unearned GAP charges shall be
 10 made subject to the following conditions:
 11 (i) A refund of the charge for a GAP agreement must be
 12 calculated using a method that is no less favorable to the
 13 consumer than a refund calculated on a pro rata basis.
 14 (ii) The consumer is entitled to a refund of the unearned GAP
 15 agreement charge as outlined in the GAP agreement.
 16 (iii) The seller of the GAP agreement, or the seller's assignee,
 17 is responsible for making a timely refund to the consumer of
 18 unearned GAP agreement charges under the terms and
 19 conditions of the GAP agreement.
 20 (g) Upon prepayment in full of the consumer loan:
 21 (i) the GAP coverage is automatically terminated; and
 22 (ii) the seller of the GAP agreement must issue a refund in
 23 accordance with subdivision (f).
 24 (h) A lender that sells GAP agreements must:
 25 (i) insure its GAP agreement obligations under a contractual
 26 liability insurance policy issued by an insurer authorized to
 27 engage in the insurance business in Indiana; and
 28 (ii) retain appropriate records, as required under this article,
 29 regarding GAP agreements sold, refunded, and expired.
 30 (4) As used in this section, "debt cancellation agreement" means an
 31 agreement that provides coverage for payment or satisfaction of all or
 32 part of a debt in the event of the loss of life, health, or income. The
 33 term does not include a GAP agreement.
 34 (5) As used in this section, "expedited payment service" means a
 35 service offered to a consumer to ensure that a payment made by the
 36 consumer with respect to a consumer loan will be reflected as paid and
 37 posted on an expedited basis.
 38 (6) As used in this section:
 39 (a) "guaranteed asset protection agreement";
 40 (b) "guaranteed auto protection agreement"; or
 41 (c) "GAP agreement";
 42 means, with respect to consumer loans involving motor vehicles or



1 other titled assets, an agreement in which the lender agrees to cancel
 2 or waive all or part of the outstanding debt after all property insurance
 3 benefits have been exhausted after the occurrence of a specified event.

4 (7) As used in this section, "skip-a-payment service" means a
 5 service that:

6 (a) is offered by a lender to a consumer; and

7 (b) permits the consumer to miss or skip a payment due under a
 8 consumer loan without resulting in default.

9 SECTION 16. IC 24-4.5-3-502, AS AMENDED BY P.L.153-2016,
 10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2019]: Sec. 502. (1) A person that is a:

12 (a) depository institution;

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

15 (c) credit union service organization;

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

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

20 (a) taking assignments of consumer loans (including small loans
 21 that are subject to IC 24-4.5-7) that are not mortgage transactions;
 22 and

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

27 in Indiana without obtaining a license under this article.

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

33 (a) The making of consumer loans.

34 (b) Taking assignments of consumer loans.

35 (c) Undertaking the direct collection of payments from or the
 36 enforcement of rights against debtors arising from consumer
 37 loans.

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



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

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

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

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

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

17 ~~(6) A CPAP contract must comply with IC 24-12-2.~~

18 SECTION 17. IC 24-4.5-3-502.2, AS ADDED BY P.L.137-2014,
 19 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2019]: Sec. 502.2. (1) Subject to subsection (6), the director
 21 may designate the NMLSR to serve as the sole entity responsible for:

22 (a) processing applications and renewals for licenses required
 23 under section 502 of this chapter;

24 (b) issuing unique identifiers for licensees and entities exempt
 25 from licensing under section 502 of this chapter; and

26 (c) performing other services that the director determines are
 27 necessary for the orderly administration of the department's
 28 licensing system under section 502 of this chapter.

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

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

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

41 (5) The director shall establish a process in which persons licensed
 42 in accordance with section 502 of this chapter may challenge



1 information reported to the NMLSR by the department.

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

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

7 (i) obtain information from the NMLSR unless the person is
8 authorized to do so by statute;

9 (ii) initiate any civil action based on information obtained
10 from the NMLSR if the information is not otherwise available
11 to the person under any other state law; or

12 (iii) initiate any civil action based on information obtained
13 from the NMLSR if the person could not have initiated the
14 action based on information otherwise available to the person
15 under any other state law.

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

19 (i) furnished by the director, the director's designee, or a
20 licensee; or

21 (ii) otherwise obtained by the NMLSR;

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

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

29 (i) to the director; or

30 (ii) by the director;

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

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

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

36 (i) obtain information;

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

38 or

39 (iii) use information to initiate a civil action or proceeding;

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

42 (f) The requirements under any federal law or IC 5-14-3 regarding



- 1 the privacy or confidentiality of any information or material
 2 provided to the NMLSR, and any privilege arising under federal
 3 or state law, including the rules of any federal or state court, with
 4 respect to the information or material, continue to apply to the
 5 information or material after the information or material has been
 6 disclosed to the NMLSR. The information and material may be
 7 shared with all state and federal regulatory officials with financial
 8 services industry oversight authority without the loss of privilege
 9 or the loss of confidentiality protections provided by federal law
 10 or IC 5-14-3.
- 11 (g) For purposes of this section, the director may enter agreements
 12 or sharing arrangements with other governmental agencies, the
 13 Conference of State Bank Supervisors, or other associations
 14 representing governmental agencies as established by rule or
 15 order of the director.
- 16 (h) Information or material that is subject to a privilege or
 17 confidentiality under subdivision (f) is not subject to:
- 18 (i) disclosure under any federal or state law governing the
 19 disclosure to the public of information held by an officer or an
 20 agency of the federal government or the respective state; or
 21 (ii) subpoena, discovery, or admission into evidence, in any
 22 private civil action or administrative process, unless with
 23 respect to any privileged information or material held by the
 24 NMLSR, the person to whom the information or material
 25 pertains waives, in whole or in part, in the discretion of the
 26 person, that privilege.
- 27 (i) Any provision of IC 5-14-3 that concerns the disclosure of:
- 28 (i) confidential supervisory information; or
 29 (ii) any information or material described in subdivision (f);
 30 and that is inconsistent with subdivision (f) is superseded by this
 31 section.
- 32 (j) This section does not apply with respect to information or
 33 material that concerns the employment history of, and publicly
 34 adjudicated disciplinary and enforcement actions against, a
 35 person licensed in accordance with section 502 of this chapter and
 36 described in section 503(2) of this chapter and that is included in
 37 the NMLSR for access by the public.
- 38 (k) The director may require a licensee required to submit
 39 information to the NMLSR to pay a processing fee considered
 40 reasonable by the director. In determining whether an NMLSR
 41 processing fee is reasonable, the director shall:
- 42 (i) require review of; and



- 1 (ii) make available;
 2 the audited financial statements of the NMLSR.
 3 (7) Notwithstanding any other provision of law, any:
 4 (a) application, renewal, or other form or document that:
 5 (i) relates to licenses issued under section 502 of this chapter;
 6 and
 7 (ii) is made or produced in an electronic format;
 8 (b) document filed as an electronic record in a multistate
 9 automated repository established and operated for the licensing or
 10 registration of financial services entities and their employees; or
 11 (c) electronic record filed through the NMLSR;
 12 is considered a valid original document when reproduced in paper form
 13 by the department.
 14 SECTION 18. IC 24-4.5-3-503, AS AMENDED BY P.L.27-2012,
 15 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2019]: Sec. 503. (1) The department shall receive and act on
 17 all applications for licenses to make consumer loans. Applications must
 18 be as prescribed by the director of the department of financial
 19 institutions. If, at any time, the information or record contained in:
 20 (a) an application filed under section 502 of this chapter or
 21 section 502.1 of this chapter; or
 22 (b) a renewal application filed under section 503.6 of this chapter;
 23 is or becomes inaccurate or incomplete in a material respect, the
 24 applicant shall promptly file a correcting amendment with the
 25 department.
 26 (2) A license shall not be issued unless the department finds that the
 27 professional training and experience, financial responsibility, character,
 28 and fitness of:
 29 (a) the applicant and any significant affiliate of the applicant;
 30 (b) each executive officer, director, or manager of the applicant,
 31 or any other individual having a similar status or performing a
 32 similar function for the applicant; and
 33 (c) if known, each person directly or indirectly owning of record
 34 or owning beneficially at least ten percent (10%) of the
 35 outstanding shares of any class of equity security of the applicant;
 36 are such as to warrant belief that the business will be operated honestly
 37 and fairly within the purposes of this article.
 38 (3) The director is entitled to request evidence of compliance with
 39 this section at:
 40 (a) the time of application;
 41 (b) the time of renewal of a license; or
 42 (c) any other time considered necessary by the director.



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

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

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

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

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

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

13 (5) For purposes of this section and in order to reduce the points of
14 contact that the director may have to maintain under this section, the
15 director may use the NMLSR as a channeling agent for requesting and
16 distributing information to and from any source as directed by the
17 director.

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

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

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

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

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

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

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

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

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

41 **(12) If the department of state revenue notifies the department**
42 **that a person is on the most recent tax warrant list, the department**



1 shall not issue or renew the person's license until:

2 (a) the person provides to the department a statement from
3 the department of state revenue that the person's tax warrant
4 has been satisfied; or

5 (b) the department receives a notice from the commissioner of
6 the department of state revenue under IC 6-8.1-8-2(k).

7 SECTION 19. IC 24-4.5-3-503.3, AS AMENDED BY P.L.69-2018,
8 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2019]: Sec. 503.3. (1) Each:

10 (a) creditor licensed by the department to engage in mortgage
11 transactions; and

12 (b) person that is exempt (either under this article or under
13 IC 24-4.4-1-202(b)(6)(a)) from licensing and that:

14 (i) employs a licensed mortgage loan originator; or

15 (ii) sponsors under an exclusive written agreement, as
16 permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage
17 loan originator as an independent agent;

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

19 (2) A surety bond must:

20 (a) provide coverage for:

21 (i) a creditor described in subsection (1)(a); and

22 (ii) an exempt person described in subsection (1)(b);

23 in an amount as prescribed in subsection (4);

24 (b) be in a form as prescribed by the director;

25 (c) be in effect:

26 (i) during the term of the creditor's license; or

27 (ii) at any time during which the person exempt from licensing
28 employs a licensed mortgage loan originator, or sponsors
29 under an exclusive written agreement (as permitted by
30 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator
31 as an independent agent;

32 as applicable;

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

34 (i) the creditor ceases offering financial services to individuals
35 in Indiana; or

36 (ii) the person exempt from licensing ceases to employ a
37 licensed mortgage loan originator, or ceases to sponsor under
38 an exclusive written agreement (as permitted by
39 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator
40 as an independent agent, or to offer financial services to
41 individuals in Indiana, whichever is later;

42 as applicable;



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

2 (i) the state; and

3 (ii) individuals who reside in Indiana when they agree to
4 receive financial services from the creditor or the person
5 exempt from licensing, as applicable;

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

9 (g) have payment conditioned upon:

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

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

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

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

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

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

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

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

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



1 **submitted through the NMLSR or any other electronic registration**
 2 **system that may be approved by the director.**

3 SECTION 20. IC 24-4.5-3-503.4, AS AMENDED BY P.L.69-2018,
 4 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]: Sec. 503.4. (1) Subject to subsection (6), the director
 6 shall designate the NMLSR to serve as the sole entity responsible for:

7 (a) processing applications and renewals for licenses under
 8 section 502.1 of this chapter;

9 (b) issuing unique identifiers for licensees under section 502.1 of
 10 this chapter and for entities exempt from licensing under this
 11 article that employ licensed mortgage loan originators; and

12 (c) performing other services that the director determines
 13 necessary for the orderly administration of the department's
 14 licensing system under section 502.1 of this chapter.

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

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

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

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

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

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

33 (i) obtain information from the NMLSR unless the person is
 34 authorized to do so by statute;

35 (ii) initiate any civil action based on information obtained
 36 from the NMLSR if the information is not otherwise available
 37 to the person under any other state law; or

38 (iii) initiate any civil action based on information obtained
 39 from the NMLSR if the person could not have initiated the
 40 action based on information otherwise available to the person
 41 under any other state law.

42 (b) Documents, materials, and other forms of information in the



1 control or possession of the NMLSR that are confidential under
2 IC 28-1-2-30 and that are:

3 (i) furnished by the director, the director's designee, or a
4 licensee; or

5 (ii) otherwise obtained by the NMLSR;

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

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

13 (i) to the director; or

14 (ii) by the director;

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

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

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

20 (i) obtain information;

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

23 (iii) use information to initiate a civil action or proceeding;

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

26 (f) Except as otherwise provided in the federal Housing and
27 Economic Recovery Act of 2008, Public Law 110-289, Section
28 1512, the requirements under any federal law or IC 5-14-3
29 regarding the privacy or confidentiality of any information or
30 material provided to the NMLSR, and any privilege arising under
31 federal or state law, including the rules of any federal or state
32 court, with respect to the information or material, continue to
33 apply to the information or material after the information or
34 material has been disclosed to the NMLSR. The information and
35 material may be shared with all state and federal regulatory
36 officials with mortgage industry oversight authority without the
37 loss of privilege or the loss of confidentiality protections provided
38 by federal law or IC 5-14-3.

39 (g) For purposes of this section, the director may enter agreements
40 or sharing arrangements with other governmental agencies, the
41 Conference of State Bank Supervisors, the American Association
42 of Residential Mortgage Regulators, or other associations



1 representing governmental agencies as established by rule or
2 order of the director.

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

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

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

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

15 (i) confidential supervisory information; or

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

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

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

29 (i) require review of; and

30 (ii) make available;

31 the audited financial statements of the NMLSR.

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

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

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

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

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

39 (c) electronic record filed through the NMLSR;

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

42 SECTION 21. IC 24-4.5-4-108, AS AMENDED BY P.L.90-2008,



1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 108. Refund or Credit Required; Amount — (1)
3 Upon prepayment in full of a consumer credit sale or consumer loan by
4 the proceeds of consumer credit insurance, the debtor or the debtor's
5 estate is entitled to a refund of:

- 6 (a) any portion of a separate charge for insurance which by reason
7 of prepayment is retained by the creditor or returned to the
8 creditor by the insurer unless the charge was computed from time
9 to time on the basis of the balances of the debtor's account; and
10 (b) any portion of an additional charge that is:
11 (i) assessed in accordance with IC 24-4.5-2-202(1)(c),
12 **IC 24-4.5-2-202(1)(h), or** IC 24-4.5-3-202(1)(e), **or**
13 **IC 24-4.5-3-202(1)(k);** and
14 (ii) subject to rebate upon prepayment.

15 (2) This chapter does not require a creditor to grant a refund or
16 credit to the debtor if all refunds and credits due to the debtor under
17 this chapter amount to less than one dollar (\$1), and except as provided
18 in subsection (1) does not require the creditor to account to the debtor
19 for any portion of a separate charge for insurance because:

- 20 (a) the insurance is terminated by performance of the insurer's
21 obligation;
22 (b) the creditor pays or accounts for premiums to the insurer in
23 amounts and at times determined by the agreement between them;
24 or
25 (c) the creditor receives directly or indirectly under any policy of
26 insurance a gain or advantage not prohibited by law.

27 (3) Except as provided in subsection (2), the creditor or the
28 creditor's assignee shall promptly make an appropriate refund or credit
29 to the debtor for any separate charge made for insurance or for an
30 additional charge described in subsection (1)(b) if:

- 31 (a) the insurance is not provided or is provided for a term shorter
32 than the term for which the charge to the debtor for insurance was
33 computed; or
34 (b) the insurance or the protection provided in exchange for the
35 additional charge described in subsection (1)(b) terminates prior
36 to the end of the scheduled term of the coverage because of
37 prepayment in full or otherwise.

38 (4) An initial creditor, a subsequent creditor, or an assignee of an
39 initial or a subsequent creditor, shall maintain documentation of any
40 account that is subject to a refund or credit under this section. The
41 information maintained under this subsection shall be made available
42 to the department as necessary to determine compliance with this



1 section.

2 (5) A refund or credit required by subsection (3)(a) is appropriate
3 as to amount if it is computed according to a method prescribed or
4 approved by the insurance commissioner or a formula filed by the
5 insurer with the insurance commissioner at least thirty (30) days before
6 the debtor's right to a refund or credit becomes determinable, unless the
7 method or formula is used after the insurance commissioner notifies the
8 insurer that it is disapproved.

9 (6) If a refund or credit required by subsection (1) or (3) is not made
10 to the debtor within sixty (60) days after the date the debt is terminated,
11 due to prepayment in full or otherwise, the creditor shall pay to the
12 debtor for each day after the sixty (60) day period has expired an
13 amount equal to the daily interest at the contracted annual percentage
14 rate on the amount of the refund required by subsection (1) due at the
15 time of prepayment or termination. The director may impose an
16 additional civil penalty of not greater than one thousand dollars
17 (\$1,000) per occurrence if a creditor engages in a pattern or practice of
18 failing to comply with this subsection.

19 SECTION 22. IC 24-4.5-6-119, AS AMENDED BY P.L.27-2012,
20 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2019]: Sec. 119. (a) Subject to subsection (b), if the director
22 determines that a director, an officer, or ~~an employee~~ **a manager** of a
23 creditor:

- 24 (1) has committed a violation of a statute, a rule, a final cease and
25 desist order, a condition imposed in writing by the director in
26 connection with the grant of an application or other request by the
27 creditor, or a written agreement between the creditor and the
28 director or the department;
29 (2) has committed fraudulent or unconscionable conduct; or
30 (3) has been convicted of a felony under the laws of Indiana or
31 any other jurisdiction;

32 the director may issue and serve upon the person a notice of charges
33 and of the director's intent to issue an order removing the person from
34 the person's office or employment, an order prohibiting participation by
35 the person in the conduct of the affairs of any creditor, or an order both
36 removing the person and prohibiting the person's participation.

37 (b) A violation, practice, or breach described in subsection (a) is
38 subject to the authority of the director under ~~subsection~~ **subsections (a)**
39 **and (c)** if the director finds any of the following:

- 40 (1) The interests of the creditor's customers could be seriously
41 prejudiced by reason of the violation, practice, or breach.
42 (2) The violation, practice, or breach involves ~~personal~~ **an act of**



1 **fraud, dishonesty, theft, breach of trust, money laundering, or**
 2 **wrongful taking of property** on the part of the officer, director,
 3 or **employee manager** involved.

4 (3) The violation, practice, or breach demonstrates a willful or
 5 continuing disregard by the officer, director, or **employee**
 6 **manager** for state or federal law and regulations, and for the
 7 consumer protections contained in this article.

8 (c) **Subject to subsections (a) and (b)**, a person who has been
 9 convicted of a felony under the laws of Indiana or any other jurisdiction
 10 may not serve as an officer, a director, or **an employee a manager** of
 11 a creditor, or serve in any similar capacity, unless the person obtains
 12 the written consent of the director.

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

16 (e) A creditor shall give the department written notice of the
 17 resignation, discharge, or termination of an employee, independent
 18 contractor, or agent against whom allegations were made that accused
 19 the employee, independent contractor, or agent of:

20 (1) violating this article or other laws, regulations, rules, or
 21 industry standards of conduct applicable to consumer credit
 22 transactions; or

23 (2) fraud, dishonesty, theft, **breach of trust, money laundering,**
 24 or the wrongful taking of property.

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

28 SECTION 23. IC 24-4.5-6-120, AS ADDED BY P.L.35-2010,
 29 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2019]: Sec. 120. (a) A notice issued under section 119 of this
 31 chapter must:

32 (1) be in writing;

33 (2) contain a statement of:

34 (A) the facts constituting the alleged violation, practice, or
 35 breach;

36 (B) the facts alleged in support of the violation, practice, or
 37 breach; and

38 (C) the director's intention to issue an order under section
 39 122(a) of this chapter;

40 (3) be delivered to the board of directors of the creditor;

41 (4) be delivered to the officer, director, or **employee manager** to
 42 which the notice applies;



1 (5) specify the procedures that must be followed to initiate a
2 hearing to contest the alleged violation, practice, or breach; and
3 (6) if the director suspends or prohibits the officer, director, or
4 **employee manager** from participation in the affairs of the
5 creditor as described under subsection (e), a statement of the
6 suspension or prohibition.

7 (b) If a hearing is requested not later than ten (10) days after service
8 of the notice described under subsection (a), the department shall hold
9 a hearing concerning the alleged violation, practice, or breach. The
10 hearing shall be held not later than forty-five (45) days after receipt of
11 the request. The department, based on the evidence presented at the
12 hearing, shall enter a final order in accordance with section 122 of this
13 chapter.

14 (c) If no hearing is requested within the period of time specified in
15 subsection (b), the director may proceed to issue a final order under
16 section 122 of this chapter on the basis of the facts set forth in the
17 notice described under subsection (a).

18 (d) An officer, a director, or **employee a manager** of a creditor who
19 is removed from a position under a removal order under section 122 of
20 this chapter that has become final may not, without the approval of the
21 director, participate in the conduct of the affairs of a licensee described
22 under IC 24-4.5-3.

23 (e) The director may, for the protection of the creditor or the
24 interests of the creditor's customers, suspend from office or prohibit
25 from participation in the affairs of the creditor an officer, a director, or
26 **an employee a manager** of a creditor who is the subject of a written
27 notice served by the director under section 119(a) of this chapter. A
28 suspension or prohibition under this subsection becomes effective upon
29 service of the notice under section 119(a) of this chapter. Unless stayed
30 by a court in a proceeding authorized by subsection (f), the suspension
31 or prohibition remains in effect pending completion of the proceedings
32 related to the notice served under section 119(a) of this chapter and
33 until the effective date of an order entered by the department under
34 subsection (b) or the director under subsection (c). If the director
35 suspends or prohibits participation of an officer, a director, or **an**
36 **employee a manager** under this subsection, copies of the notice shall
37 also be served upon the creditor or affiliate of which the person is an
38 officer, a director, or **an employee. a manager.**

39 (f) Not more than fifteen (15) days after an officer, a director, or **an**
40 **employee a manager** has been suspended from office or prohibited
41 from participation in the conduct of the affairs of the creditor or
42 affiliate under subsection (e), the officer, director, or **employee**



1 **manager** may apply to a court having jurisdiction for a stay of the
 2 suspension or prohibition pending completion of the proceedings
 3 related to the notice served under section 119(a) of this chapter. The
 4 court may stay a suspension or prohibition of the officer, director, or
 5 ~~employee~~ **manager**.

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

8 SECTION 24. IC 24-4.5-6-121, AS ADDED BY P.L.35-2010,
 9 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 121. If the director enters into a consent to a final
 11 order with a director, an officer, or ~~an employee~~, **a manager**, the
 12 director is not required to issue and serve a notice of charges upon the
 13 director, officer, or ~~employee~~ **manager** under section 119 of this
 14 chapter. A consent agreement may be negotiated and entered into
 15 before or after the issuance of a notice of charges. The director shall
 16 provide a copy of the consent order to the board of directors of the
 17 creditor.

18 SECTION 25. IC 24-4.5-6-122, AS ADDED BY P.L.35-2010,
 19 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2019]: Sec. 122. (a) Subject to section 120 of this chapter, if,
 21 after a hearing described in section 120(b) of this chapter, the
 22 department determines that a director, an officer, or ~~an employee~~ **a**
 23 **manager** of a creditor has committed an act described in section 119
 24 of this chapter, the department may issue a final order. If a hearing is
 25 not requested within the time specified in section 120(b) of this
 26 chapter, the director may issue a final order on the basis of the facts set
 27 forth in the written notice served under section 119(a) of this chapter.

28 (b) Unless the director has entered into a consent agreement
 29 described in section 121 of this chapter, a final order must include
 30 separately stated findings of fact and conclusions of law for all aspects
 31 of the order.

32 (c) In a final order under this section, the department or the director,
 33 as appropriate, may order one (1) or more of the following with respect
 34 to an officer, a director, or ~~an employee~~ **a manager** of a creditor:

35 (1) The removal of the officer, director, or ~~employee~~ **manager**
 36 from the person's office, position, or employment.

37 (2) A prohibition against any participation by the officer, director,
 38 or ~~employee~~ **manager** in the conduct of the affairs of any creditor.

39 (3) If the subject of the order is an officer or a director of a
 40 creditor, and subject to section 124 of this chapter, the imposition
 41 of a civil penalty not to exceed fifteen thousand dollars (\$15,000)
 42 for each practice, violation, or act that:



- 1 (A) is described in section 119 of this chapter; and
 2 (B) found to exist by the department or the director.
- 3 (d) A final order shall be issued in writing not later than ninety (90)
 4 days after conclusion of a hearing held under section 120(b) of this
 5 chapter, unless this period is waived or extended with the written
 6 consent of all parties or for good cause shown.
- 7 (e) If the officer, director, or **employee manager** does not appear
 8 individually or by an authorized representative at a hearing held under
 9 section 120(b) of this chapter, the officer, director, or **employee**
 10 **manager** is considered to have consented to the issuance of a final
 11 order.
- 12 (f) The director may keep a final order confidential if the director
 13 determines that the immediate release of the order would endanger the
 14 stability of the creditor. However, after two (2) years following the date
 15 that an order is issued, a final order is no longer confidential.
- 16 (g) The remedies provided in this chapter are in addition to other
 17 remedies contained in this article.
- 18 SECTION 26. IC 24-4.5-6-125, AS ADDED BY P.L.35-2010,
 19 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2019]: Sec. 125. The director may enforce any of the
 21 following by applying for appropriate relief to a court having
 22 jurisdiction:
- 23 (1) An order issued under section 121 or 122 of this chapter.
 24 (2) A written agreement entered into by the director or the
 25 department and a director, an officer, or **an employee a manager**
 26 of a creditor.
 27 (3) Any condition imposed in writing by the director or the
 28 department on a director, an officer, or **an employee a manager**
 29 of a creditor.
- 30 SECTION 27. IC 24-7-1-5, AS AMENDED BY P.L.217-2007,
 31 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2019]: Sec. 5. (a) Rental purchase agreements involving:
- 33 (1) motor vehicles (as defined in IC 9-13-2-105(a)), **or including:**
 34 **(A) component parts (as defined in IC 9-13-2-34);**
 35 **(B) major component parts (as defined in IC 9-13-2-95);**
 36 **and**
 37 **(C) any other parts (as defined in IC 9-13-2-122) other**
 38 **than:**
 39 **(i) wheels;**
 40 **(ii) rims; and**
 41 **(iii) tires;**
 42 **necessary to operate a motor vehicle;**



1 (2) other titled property; or
 2 (3) live animals;
 3 are prohibited under this article.

4 (b) If the director determines that a transaction described in
 5 IC 24-7-2-9(a) involves the application of subterfuge for the
 6 purpose of avoiding the application of the Uniform Consumer
 7 Credit Code (IC 24-4.5), the director may treat the transaction as
 8 a disguised consumer credit sale that is subject to IC 24-4.5. A
 9 determination by the director under this subsection:

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

13 SECTION 28. IC 24-7-2-3.5 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2019]: Sec. 3.5. "Initial rental payment" means any up-front
 16 payment:

- 17 (1) that is made by a lessee to a lessor, or to an agent acting on
 18 behalf of a lessor, for property under a rental purchase
 19 agreement;
 20 (2) that includes a rental payment that permits the lessee's use
 21 of the property for the initial rental period;
 22 (3) that may be in an amount that is larger than a regular
 23 rental payment due under the rental purchase agreement; and
 24 (4) that may include one (1) or more of the following:
 25 (A) An amount intended to be paid toward the rental or
 26 ownership of the property that is the subject of the rental
 27 purchase agreement.
 28 (B) Additional charges permitted under IC 24-7-5,
 29 including any of the following:
 30 (i) A nonrefundable processing fee or a delivery charge.
 31 (ii) Sales and use taxes.
 32 (iii) Official fees.
 33 (iv) An optional liability waiver fee for the initial rental
 34 period.
 35 (v) A security deposit.

36 SECTION 29. IC 24-7-2-8.5 IS ADDED TO THE INDIANA CODE
 37 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2019]: Sec. 8.5. "Regular rental payment" means a periodic
 39 payment in a fixed amount that permits a lessee's use of property
 40 under a rental purchase agreement for a specific time after the
 41 initial rental period.

42 SECTION 30. IC 24-7-3-6, AS AMENDED BY P.L.69-2018,



1 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2019]: Sec. 6. ~~Before any regular rental payment is due under~~
 3 ~~the rental purchase agreement~~, The lessor shall obtain the signature of
 4 the lessee on the writing containing the terms of the rental purchase
 5 agreement and shall furnish the lessee with a copy of the written and
 6 signed rental purchase agreement **at the time of consummation of the**
 7 **agreement**. If there is more than one (1) lessee in a rental purchase
 8 agreement, delivery of a copy of the rental purchase agreement to one
 9 (1) of the lessees is sufficient to comply with this section.

10 SECTION 31. IC 24-7-4-1, AS AMENDED BY P.L.69-2018,
 11 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2019]: Sec. 1. At any time after ~~the initial a rental payment~~
 13 **purchase agreement is made, consummated**, the lessee may acquire
 14 ownership of the property under the terms specified in the rental
 15 purchase agreement.

16 SECTION 32. IC 24-7-4-1.5 IS REPEALED [EFFECTIVE JULY
 17 1, 2019]. ~~Sec. 1.5: (a) Any up-front payment made by the lessee at the~~
 18 ~~time a rental purchase agreement is entered into must be treated by the~~
 19 ~~lessor as an initial rental payment:~~

20 (b) ~~An initial rental payment:~~

21 ~~(1) is subject to the disclosure requirements of IC 24-7; and~~

22 ~~(2) may be in a sum larger than a regular rental payment due~~
 23 ~~under the rental purchase agreement.~~

24 SECTION 33. IC 24-7-5-5, AS AMENDED BY P.L.69-2018,
 25 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]: Sec. 5. (a) The parties to a rental purchase agreement
 27 may contract for late charges or delinquency fees as follows:

28 (1) For agreements with monthly renewal dates, a late charge not
 29 exceeding eight dollars (\$8) may be assessed on any rental
 30 payment not made within five (5) days after:

31 (A) the renewal date for the agreement; or

32 (B) the return of the property is required under the rental
 33 purchase agreement.

34 (2) For agreements with weekly or biweekly renewal dates, a late
 35 charge not exceeding the amount specified in subsection (e) may
 36 be assessed on any rental payments not made within two (2) days
 37 after:

38 (A) the renewal date for the agreement; or

39 (B) the return of the property is required under the agreement.

40 (b) A late charge on a rental purchase agreement may be ~~collected~~
 41 **assessed** only once on any accrued regular rental payment, no matter
 42 how long it remains unpaid.



- 1 (c) A late charge may be collected at any time after it accrues.
- 2 (d) A late charge may not be assessed against a regular rental
3 payment that is timely made, even though an earlier late charge has not
4 been paid in full.
- 5 (e) The amount that may be assessed under subsection (a)(2) is as
6 follows:
- 7 (1) Three dollars (\$3) for any payment not greater than twenty
8 dollars (\$20).
- 9 (2) Five dollars (\$5) for any payment greater than twenty dollars
10 (\$20).
- 11 SECTION 34. IC 24-7-6-2, AS AMENDED BY P.L.69-2018,
12 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2019]: Sec. 2. (a) As a condition precedent to reinstatement
14 of the rental purchase agreement, a lessor may charge:
- 15 (1) the outstanding balance of any accrued regular rental
16 payments, returned payment ~~charges, fees,~~ and delinquency
17 charges;
- 18 (2) a reinstatement fee not exceeding the amount allowed under
19 IC 24-7-5-6; and
- 20 (3) delivery charges not exceeding the amounts allowed under
21 IC 24-7-5-3 if redelivery of the item is necessary.
- 22 (b) A reinstatement fee may not be charged under subsection (a)(2)
23 unless the property has been returned to the lessor and is in the lessor's
24 possession.
- 25 SECTION 35. IC 24-12-1-0.5 IS ADDED TO THE INDIANA
26 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
27 **[EFFECTIVE JULY 1, 2019]: Sec. 0.5. (a) As used in this article and**
28 **subject to IC 24-12-6-2, "civil proceeding advance payment**
29 **transaction", or "CPAP transaction", means a nonrecourse**
30 **transaction in which a CPAP provider provides a funded amount**
31 **to a consumer claimant to use for any purpose other than**
32 **prosecuting the consumer claimant's civil proceeding, if the**
33 **repayment of the funded amount is:**
- 34 (1) **required only if the consumer claimant prevails in the civil**
35 **proceeding; and**
- 36 (2) **sourced from the proceeds of the civil proceeding, whether**
37 **the proceeds result from a judgment, a settlement, or some**
38 **other resolution.**
- 39 (b) **The term includes a transaction:**
- 40 (1) **that is termed or described as:**
- 41 (A) **a purchase; or**
- 42 (B) **an assignment of an interest in a consumer claimant's**



1 civil proceeding, or in the proceeds of a consumer
2 claimant's civil proceeding;

3 by the CPAP provider; or

4 (2) with respect to which the CPAP provider sets forth in a
5 CPAP contract, an agreement by:

6 (A) the CPAP provider to purchase from the consumer
7 claimant; or

8 (B) the consumer claimant to assign to the CPAP provider;
9 a contingent right to receive a share of the potential proceeds
10 of the consumer claimant's civil proceeding, whether the
11 proceeds result from a judgment, a settlement, or some other
12 resolution.

13 SECTION 36. IC 24-12-1-1, AS AMENDED BY P.L.85-2017,
14 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2019]: Sec. 1. The following definitions apply throughout this
16 article:

17 (1) "Advertise" means publishing or disseminating any written,
18 electronic, or printed communication, or any communication by
19 means of recorded telephone messages or transmitted on radio,
20 television, the Internet, or similar communications media,
21 including film strips, motion pictures, and videos, published,
22 disseminated, circulated, or placed before the public, directly or
23 indirectly, for the purpose of inducing a consumer to enter into a
24 CPAP transaction.

25 (2) "Charges" means the amount of money to be paid to a CPAP
26 provider by or on behalf of a consumer claimant above the funded
27 amount provided by or on behalf of the CPAP provider to a
28 consumer claimant. The term includes all administrative,
29 origination, underwriting, and other fees no matter how
30 denominated.

31 (3) "Civil proceeding", with respect to a CPAP transaction, ~~has~~
32 ~~the meaning set forth in IC 24-4.5-3-110.5.~~ means:

33 (A) a civil action;

34 (B) a mediation, an arbitration, or any other alternative
35 dispute resolution proceeding; or

36 (C) an administrative proceeding before:

37 (i) an agency or instrumentality of the state; or

38 (ii) a political subdivision, or an agency or
39 instrumentality of a political subdivision, of the state;

40 that is filed in, or is under the jurisdiction of, a court with
41 jurisdiction in Indiana, a tribunal in Indiana, or an agency or
42 instrumentality described in clause (C) in Indiana. The term



- 1 includes all proceedings arising out of or relating to the
 2 proceeding, including any proceedings on appeal or remand,
 3 and any enforcement, ancillary, or parallel proceedings.
- 4 (4) "Civil proceeding advance payment contract", or "CPAP
 5 contract", has the meaning set forth in ~~IC 24-4.5-3-110.5~~. means
 6 a contract for a CPAP transaction that a CPAP provider
 7 enters into, or offers to enter into, with a consumer claimant.
- 8 (5) "Civil proceeding advance payment provider", or "CPAP
 9 provider", has the meaning set forth in ~~IC 24-4.5-3-110.5~~. means
 10 a person that enters into, or offers to enter into, a CPAP
 11 transaction with a consumer claimant in connection with a
 12 civil proceeding.
- 13 (6) "Civil proceeding advance payment transaction", or "CPAP
 14 transaction", has the meaning set forth in ~~IC 24-4.5-3-110~~. section
 15 **0.5 of this chapter.**
- 16 (7) "Consumer claimant", with respect to a CPAP transaction, has
 17 the meaning set forth in ~~IC 24-4.5-3-110.5~~. means an individual:
 18 (A) who is or may become a plaintiff, a claimant, or a
 19 demandant in a civil proceeding; and
 20 (B) who:
 21 (i) is offered a CPAP transaction by a CPAP provider; or
 22 (ii) enters into a CPAP transaction with a CPAP
 23 provider.
- 24 (8) "Department" refers to the department of financial
 25 institutions established by IC 28-11-1-1.
- 26 (9) "Director" means the director of the department of
 27 financial institutions or the director's designee.
- 28 ~~(8)~~ (10) "Funded amount", with respect to a CPAP transaction,
 29 has the meaning set forth in ~~IC 24-4.5-3-110.5~~. means the
 30 amount of money:
 31 (A) that is provided to the consumer claimant by the CPAP
 32 provider;
 33 (B) the repayment of which is:
 34 (i) required only if the consumer claimant prevails in the
 35 consumer claimant's civil proceeding; and
 36 (ii) sourced from the proceeds of the civil proceeding,
 37 whether the proceeds result from a judgment, a
 38 settlement, or some other resolution; and
 39 (C) that under IC 24-12-4-1(1)(A) must be:
 40 (i) set forth; and
 41 (ii) designated by the term "funded amount";
 42 by the CPAP provider in the CPAP contract.



1 (9) (11) "Funding date" means the date on which the funded
 2 amount is transferred to the consumer claimant by the CPAP
 3 provider, by:

4 (A) personal delivery, wire, Automated Clearing House
 5 (ACH), or other electronic means; or

6 (B) insured, certified, or registered United States mail.

7 **(12) "Nationwide Multistate Licensing System and Registry"**
 8 **(or "Nationwide Mortgage Licensing System and Registry" or**
 9 **"NMLSR") means a multistate licensing system owned and**
 10 **operated by the State Regulatory Registry, LLC, or by any**
 11 **successor or affiliated entity, for the licensing and registration**
 12 **of creditors, mortgage loan originators, and other persons in**
 13 **the mortgage or financial services industries. The term**
 14 **includes any other name or acronym that may be assigned to**
 15 **the system by the State Regulatory Registry, LLC, or by any**
 16 **successor or affiliated entity.**

17 **(13) "Regularly engaged", with respect to a CPAP provider,**
 18 **refers to a CPAP provider that:**

19 **(A) entered into CPAP transactions with consumer**
 20 **claimants more than fifteen (15) times in the preceding**
 21 **calendar year; or**

22 **(B) enters into or will enter into CPAP transactions with**
 23 **consumer claimants more than fifteen (15) times in the**
 24 **current calendar year, if the CPAP provider did not meet**
 25 **the numerical standard described in clause (A) in the**
 26 **preceding calendar year.**

27 ~~(10)~~ **(14) "Resolution date" means the date the funded amount,**
 28 **plus the agreed upon charges, is delivered to the CPAP provider.**

29 **(15) "Unique identifier" means a number or other identifier**
 30 **assigned by protocols established by the NMLSR.**

31 SECTION 37. IC 24-12-2-1, AS ADDED BY P.L.153-2016,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2019]: Sec. 1. Every CPAP transaction must meet the
 34 following requirements:

35 (1) The CPAP contract must be completely filled in when
 36 presented to the consumer claimant for signature.

37 (2) The CPAP contract must contain, in bold and boxed type, font
 38 **contained within a box**, a right of rescission, allowing the
 39 consumer claimant to cancel the contract without penalty or
 40 further obligation if, not later than five (5) business days after the
 41 funding date, the consumer claimant either:

42 (A) returns to the CPAP provider the full amount of the



- 1 disbursed funds by delivering the provider's uncashed check
2 to the provider's office in person; or
3 (B) mails, by insured, certified, or registered United States
4 mail, to the address specified in the contract, a notice of
5 cancellation and includes in the mailing a return of the full
6 amount of disbursed funds in the form of the provider's
7 uncashed check or a registered or certified check or money
8 order.
- 9 (3) The CPAP contract must contain the initials of the consumer
10 claimant on each page.
- 11 (4) If the consumer claimant is represented by an attorney in the
12 civil proceeding on which a CPAP transaction is based, the CPAP
13 contract must contain a written acknowledgment by the attorney
14 that attests to the following:
- 15 (A) That to the best of the attorney's knowledge, all costs and
16 charges relating to the CPAP transaction have been disclosed
17 to the consumer claimant.
- 18 (B) That the attorney is being paid by the consumer claimant
19 on a contingency basis under a written fee agreement.
- 20 (C) That all proceeds of the civil proceeding will be disbursed
21 through a trust account of the attorney, or through a settlement
22 fund established to receive the proceeds of the civil
23 proceeding on behalf of the consumer claimant.
- 24 (D) That the attorney is following the instructions of the
25 consumer claimant with respect to the CPAP transaction.
- 26 (E) That the attorney has not received a referral fee or other
27 consideration from the CPAP provider, and agrees not to
28 receive a referral fee or other consideration from the CPAP
29 provider at any time, in connection with the CPAP transaction.
- 30 If the attorney retained by the consumer claimant in the consumer
31 claimant's civil proceeding does not complete the
32 acknowledgment required by this subdivision, the CPAP contract,
33 and the CPAP transaction to which it pertains, are void. However,
34 the CPAP contract, and the CPAP transaction to which it pertains,
35 remain valid and enforceable if the consumer claimant or the
36 attorney terminates the representation.
- 37 SECTION 38. IC 24-12-4-1, AS ADDED BY P.L.153-2016,
38 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2019]: Sec. 1. Each CPAP contract must contain the
40 disclosures specified in this section, which are material terms of the
41 contract. Unless otherwise specified, the disclosures must be in at least
42 a 12 point bold font and be placed clearly and conspicuously within the



- 1 contract. The following disclosures are required:
 2 (1) On the front page, under appropriate headings, language
 3 specifying:
 4 (A) the funded amount, **designated by the term "funded**
 5 **amount"**, to be paid to the consumer claimant by the CPAP
 6 provider;
 7 (B) an itemization of one (1) time charges;
 8 (C) the total amount to be assigned by the consumer claimant
 9 to the CPAP provider, including the funded amount and all
 10 charges; and
 11 (D) a payment schedule including the funded amount and all
 12 charges, listing all dates and the amount due at the end of each
 13 ~~one hundred eighty (180) day~~ **six (6) month** period, from the
 14 funding date until the date on which the maximum amount due
 15 to the CPAP provider by the consumer claimant occurs.
 16 (2) A notice within the body of the contract stating the following:
 17 "Consumer Claimant's Right to Cancellation: You may cancel this
 18 contract without penalty or further obligation within five (5)
 19 business days after the funding date if you either:
 20 (A) return to **(insert name of** the CPAP provider) the full
 21 amount of the disbursed funds by delivering the provider's
 22 uncashed check to the provider's office in person; or
 23 (B) mail, by insured, certified, or registered United States
 24 mail, to **(insert name of** the CPAP provider) at the address
 25 specified in the contract, a notice of cancellation and include
 26 in the mailing a return of the full amount of disbursed funds in
 27 the form of the provider's uncashed check or a registered or
 28 certified check or money order."
 29 **The notice required by this subdivision must include the date**
 30 **and time upon which the right to cancellation expires.**
 31 (3) A notice informing the consumer claimant that the CPAP
 32 provider has no role in deciding whether, when, and how much
 33 the civil proceeding is settled for. However, the consumer
 34 claimant and consumer claimant's attorney must notify the CPAP
 35 provider of the outcome of the civil proceeding by settlement or
 36 adjudication before the resolution date. The CPAP provider may
 37 seek updated information about the status of the civil proceeding
 38 but in no event may the provider interfere with the independent
 39 professional judgment of the attorney in the handling of the civil
 40 proceeding or any settlement.
 41 (4) Within the body of the contract, in all capital letters in at least
 42 a 12 point bold font contained within a box the following: "THE



1 FUNDED AMOUNT AND AGREED UPON CHARGES SHALL
 2 BE PAID ONLY FROM THE PROCEEDS OF YOUR CIVIL
 3 PROCEEDING, AND SHALL BE PAID ONLY TO THE
 4 EXTENT THAT THERE ARE AVAILABLE PROCEEDS
 5 FROM YOUR CIVIL PROCEEDING. YOU WILL NOT OWE
 6 (INSERT NAME OF THE CIVIL PROCEEDING ADVANCE
 7 PAYMENT PROVIDER) ANYTHING IF THERE ARE NO
 8 PROCEEDS FROM YOUR CIVIL PROCEEDING, UNLESS
 9 YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS
 10 CONTRACT OR YOU HAVE COMMITTED FRAUD
 11 AGAINST (INSERT NAME OF THE CIVIL PROCEEDING
 12 ADVANCE PAYMENT PROVIDER).".

13 (5) Located immediately above the place on the contract where
 14 the consumer claimant's signature is required, in at least a 12
 15 point bold font the following: "Do not sign this contract before
 16 you read it completely or if the contract contains any blank
 17 spaces. You are entitled to a completely filled in copy of the
 18 contract. Before you sign this contract, you should obtain the
 19 advice of an attorney. Depending on the circumstances, you may
 20 want to consult a tax, public or private benefits planning, or
 21 financial professional. You acknowledge that your attorney in the
 22 civil proceeding has provided no tax, public or private benefit
 23 planning, or financial advice regarding this transaction.".

24 SECTION 39. IC 24-12-4.5 IS ADDED TO THE INDIANA CODE
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]:

27 **Chapter 4.5. Charges**

28 **Sec. 1. This chapter applies to a CPAP transaction offered or**
 29 **entered into after June 30, 2016.**

30 **Sec. 2. (a) With respect to a CPAP transaction, a CPAP provider**
 31 **may impose the following:**

32 **(1) A fee that is:**

33 **(A) calculated at an annual rate that does not exceed**
 34 **thirty-six percent (36%) of the funded amount; and**

35 **(B) earned annually on the anniversary of the funding**
 36 **date, in the case of a CPAP transaction offered or entered**
 37 **into after June 30, 2019.**

38 **(2) A servicing charge that is:**

39 **(A) calculated at an annual rate that does not exceed seven**
 40 **percent (7%) of the funded amount; and**

41 **(B) earned annually on the anniversary of the funding**
 42 **date, in the case of a CPAP transaction offered or entered**



- 1 into after June 30, 2019.
- 2 **(3) With respect to any one (1) civil proceeding, total charges**
- 3 **that do not exceed five hundred dollars (\$500) for obtaining**
- 4 **and preparing documents, in the case of a CPAP transaction**
- 5 **offered or entered into after June 30, 2019.**
- 6 **(4) The following with respect to a CPAP transaction offered**
- 7 **or entered into after June 30, 2016, and before July 1, 2019:**
- 8 **(A) If the funded amount of the CPAP transaction is less**
- 9 **than five thousand dollars (\$5,000), a one (1) time charge**
- 10 **that does not exceed two hundred fifty dollars (\$250) for**
- 11 **obtaining and preparing documents.**
- 12 **(B) If the funded amount of the CPAP transaction is at**
- 13 **least five thousand dollars (\$5,000), a one (1) time charge**
- 14 **that does not exceed five hundred dollars (\$500) for**
- 15 **obtaining and preparing documents.**
- 16 **(b) A CPAP provider may not assess, or collect from the**
- 17 **consumer claimant, any fee or charge not otherwise permitted**
- 18 **under this chapter in connection with a CPAP transaction. The fees**
- 19 **and charges permitted under this chapter are not subject to refund**
- 20 **or rebate.**
- 21 SECTION 40. IC 24-12-5-1, AS ADDED BY P.L.153-2016,
- 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2019]: Sec. 1. (a) The department of financial institutions may
- 24 enforce this article.
- 25 (b) This article does not restrict the exercise of powers or the
- 26 performance of the duties of the department of financial institutions:
- 27 **With respect to CPAP transactions and CPAP providers, the**
- 28 **department has all powers of administration, investigation, and**
- 29 **enforcement set forth in:**
- 30 **(1) IC 24-4.5-6; and**
- 31 **(2) IC 28-11-4;**
- 32 **including the authority to levy a civil penalty.**
- 33 SECTION 41. IC 24-12-9-1, AS ADDED BY P.L.153-2016,
- 34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JULY 1, 2019]: Sec. 1. After December 31, 2016, a person may not
- 36 regularly engage (as determined in accordance with ~~the number of~~
- 37 ~~transactions set forth in IC 24-4.5-1-301.5(39)) IC 24-12-1-1(13)) in~~
- 38 ~~the business of making CPAP transactions in Indiana with consumer~~
- 39 **claimants unless the person obtains, and maintains on an annual basis,**
- 40 **a CPAP license issued by the department under IC 24-4.5-3. this**
- 41 **chapter.**
- 42 SECTION 42. IC 24-12-9-2 IS REPEALED [EFFECTIVE JULY 1,



1 2019]. Sec. 2: Every person shall, at the time of filing for licensure, file
 2 with the department of financial institutions; if required by the
 3 department, a bond satisfactory to the department in an amount not to
 4 exceed fifty thousand dollars (\$50,000). Instead of the bond, at the
 5 option of the person, the person may post an irrevocable letter of credit.
 6 The terms of the bond must run concurrently with the period during
 7 which the license will be in effect. The bond must provide that the
 8 person will faithfully follow the law:

9 SECTION 43. IC 24-12-9-3, AS ADDED BY P.L.153-2016,
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2019]: Sec. 3. A CPAP transaction entered into before July 1,
 12 2016, is not subject to this article. ~~or to IC 24-4-5.~~

13 SECTION 44. IC 24-12-9-4 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2019]: Sec. 4. (a) **Subject to subsection (f), the director may
 16 designate the NMLSR to serve as the sole entity responsible for:**

17 **(1) processing applications and renewals for licenses required
 18 under section 1 of this chapter;**

19 **(2) issuing unique identifiers for licensees under this chapter;
 20 and**

21 **(3) performing other services that the director determines are
 22 necessary for the orderly administration of the department's
 23 licensing system under this chapter.**

24 **(b) Subject to the confidentiality provisions contained in
 25 IC 5-14-3, this section, and IC 28-1-2-30, the director may
 26 regularly report to the NMLSR significant or recurring violations
 27 of this article.**

28 **(c) Subject to the confidentiality provisions contained in
 29 IC 5-14-3, this section, and IC 28-1-2-30, the director may report
 30 to the NMLSR complaints received regarding licensees under this
 31 chapter.**

32 **(d) The director may report to the NMLSR publicly adjudicated
 33 licensure actions against licensees under this chapter.**

34 **(e) The director shall establish a process in which persons
 35 licensed in accordance with this chapter may challenge information
 36 reported to the NMLSR by the department.**

37 **(f) The director's authority to designate the NMLSR under
 38 subsection (a) is subject to the following:**

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

42 **(A) obtain information from the NMLSR unless the person**



- 1 is authorized to do so by statute;
- 2 (B) initiate any civil action based on information obtained
- 3 from the NMLSR if the information is not otherwise
- 4 available to the person under any other state law; or
- 5 (C) initiate any civil action based on information obtained
- 6 from the NMLSR if the person could not have initiated the
- 7 action based on information otherwise available to the
- 8 person under any other state law.
- 9 (2) Documents, materials, and other forms of information in
- 10 the control or possession of the NMLSR that are confidential
- 11 under IC 28-1-2-30 and that are:
- 12 (A) furnished by the director, the director's designee, or a
- 13 licensee; or
- 14 (B) otherwise obtained by the NMLSR;
- 15 are confidential and privileged by law and are not subject to
- 16 inspection under IC 5-14-3, subject to subpoena, subject to
- 17 discovery, or admissible in evidence in any civil action.
- 18 However, the director may use the documents, materials, or
- 19 other information available to the director in furtherance of
- 20 any action brought in connection with the director's duties
- 21 under this article.
- 22 (3) Disclosure of documents, materials, and information:
- 23 (A) to the director; or
- 24 (B) by the director;
- 25 under this subsection does not result in a waiver of any
- 26 applicable privilege or claim of confidentiality with respect to
- 27 the documents, materials, or information.
- 28 (4) Information provided to the NMLSR is subject to
- 29 IC 4-1-11.
- 30 (5) This subsection does not limit or impair a person's right
- 31 to:
- 32 (A) obtain information;
- 33 (B) use information as evidence in a civil action or
- 34 proceeding; or
- 35 (C) use information to initiate a civil action or proceeding;
- 36 if the information may be obtained from the director or the
- 37 director's designee under any law.
- 38 (6) The requirements under any federal law or IC 5-14-3
- 39 regarding the privacy or confidentiality of any information or
- 40 material provided to the NMLSR, and any privilege arising
- 41 under federal or state law, including the rules of any federal
- 42 or state court, with respect to the information or material,



1 continue to apply to the information or material after the
 2 information or material has been disclosed to the NMLSR.
 3 The information and material may be shared with all state
 4 and federal regulatory officials with financial services
 5 industry oversight authority without the loss of privilege or
 6 the loss of confidentiality protections provided by federal law
 7 or IC 5-14-3.

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

13 (8) Information or material that is subject to a privilege or
 14 confidentiality under subdivision (6) is not subject to:

15 (A) disclosure under any federal or state law governing the
 16 disclosure to the public of information held by an officer or
 17 an agency of the federal government or the respective
 18 state; or

19 (B) subpoena, discovery, or admission into evidence, in any
 20 private civil action or administrative process, unless with
 21 respect to any privileged information or material held by
 22 the NMLSR, the person to whom the information or
 23 material pertains waives, in whole or in part, in the
 24 discretion of the person, that privilege.

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

26 (A) confidential supervisory information; or

27 (B) any information or material described in subdivision
 28 (6);

29 and that is inconsistent with subdivision (6) is superseded by
 30 this section.

31 (10) This section does not apply with respect to information or
 32 material that concerns the employment history of, and
 33 publicly adjudicated disciplinary and enforcement actions
 34 against, a person licensed in accordance with this chapter and
 35 described in section 5(b) of this chapter and that is included
 36 in the NMLSR for access by the public.

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

41 (A) require review of; and

42 (B) make available;



1 the audited financial statements of the NMLSR.

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

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

4 (A) relates to licenses issued under this chapter; and

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

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

10 (3) electronic record filed through the NMLSR;

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

13 SECTION 45. IC 24-12-9-5 IS ADDED TO THE INDIANA CODE
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2019]: Sec. 5. (a) The department shall receive and act on all
16 applications for licenses to regularly engage as a CPAP provider
17 in CPAP transactions. Applications must be as prescribed by the
18 director of the department of financial institutions. If, at any time,
19 the information or record contained in:

20 (1) an application; or

21 (2) a renewal application;

22 filed under this chapter is or becomes inaccurate or incomplete in
23 a material respect, the applicant shall promptly file a correcting
24 amendment with the department.

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

28 (1) the applicant and any significant affiliate of the applicant;

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

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

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

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

40 (1) the time of application;

41 (2) the time of renewal of a license; or

42 (3) any other time considered necessary by the director.



1 **(d) Evidence of compliance with this section concerning a**
 2 **person licensed under this chapter may include:**

- 3 **(1) criminal background checks as described in section 6 of**
 4 **this chapter, including a national criminal history background**
 5 **check (as defined in IC 10-13-3-12) by the Federal Bureau of**
 6 **Investigation, for any individual described in subsection (b);**
 7 **(2) credit histories as described in section 7 of this chapter;**
 8 **(3) surety bond requirements as described in section 8 of this**
 9 **chapter;**
 10 **(4) a review of licensure actions in Indiana and other states;**
 11 **and**
 12 **(5) other background checks considered necessary by the**
 13 **director.**

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

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

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

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

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

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

37 **(j) Except in a transaction approved under section 12 of this**
 38 **chapter, a license issued under this section is not assignable or**
 39 **transferable.**

40 SECTION 46. IC 24-12-9-6 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2019]: **Sec. 6. (a) When the director requests a national criminal**



1 history background check under section 5(d)(1) of this chapter for
 2 an individual described in section 5(b) of this chapter, the director
 3 shall require the individual to submit fingerprints to the
 4 department, state police department, or NMLSR, as directed, at
 5 the time evidence of compliance is requested under section 5(c) of
 6 this chapter. The individual to whom the request is made shall pay
 7 any fees or costs associated with processing and evaluating the
 8 fingerprints and the national criminal history background check.
 9 The national criminal history background check may be used by
 10 the director to determine the individual's compliance with this
 11 section. The director or the department may not release the results
 12 of the national criminal history background check to any private
 13 entity.

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

20 SECTION 47. IC 24-12-9-7 IS ADDED TO THE INDIANA CODE
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2019]: Sec. 7. (a) If the director requests a credit report for an
 23 individual described in section 5(b) of this chapter, the individual
 24 to whom the request is made shall pay any fees or costs associated
 25 with procuring the report.

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

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

- 35 (1) Bankruptcies filed within the last ten (10) years.
- 36 (2) Current outstanding judgments, except judgments solely
 37 as a result of medical expenses.
- 38 (3) Current outstanding tax liens or other government liens or
 39 filings.
- 40 (4) Foreclosures within the past three (3) years.
- 41 (5) A pattern of serious delinquent accounts within the past
 42 three (3) years.



1 SECTION 48. IC 24-12-9-8 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2019]: **Sec. 8. (a) If required by the department, each CPAP
 4 provider licensed by the department under this article must be
 5 covered by a surety bond in accordance with this section in an
 6 amount not to exceed fifty thousand dollars (\$50,000).**

7 **(b) Any surety bond required under this section must:**

8 **(1) provide coverage for the CPAP provider in the amount set
 9 forth in subsection (d);**

10 **(2) be in a form prescribed by the director;**

11 **(3) be in effect during the term of the CPAP provider's license
 12 under this article;**

13 **(4) remain in effect during the two (2) years after the CPAP
 14 provider ceases offering CPAP transactions to individuals in
 15 Indiana;**

16 **(5) be payable to the department for the benefit of:**

17 **(A) the state; and**

18 **(B) individuals who reside in Indiana when they agree to
 19 enter into CPAP transactions with the CPAP provider;**

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

24 **(7) have payment conditioned upon the CPAP provider's
 25 noncompliance with or violation of this chapter or other
 26 federal or state laws or regulations applicable to CPAP
 27 transactions.**

28 **(c) The director may adopt rules or guidance documents with
 29 respect to the requirements for a surety bond as necessary to
 30 accomplish the purposes of this article.**

31 **(d) The penal sum of the surety bond shall be maintained in a
 32 amount determined by the director. If the principal amount of a
 33 surety bond required under this section is reduced by payment of
 34 a claim or judgment, the CPAP provider for whom the bond is
 35 issued shall immediately notify the director of the reduction and,
 36 not later than thirty (30) days after notice by the director, file a
 37 new or an additional surety bond in an amount set by the director.
 38 The amount of the new or additional bond set by the director must
 39 be at least the amount of the bond before payment of the claim or
 40 judgment.**

41 **(e) If for any reason a surety terminates a bond issued under
 42 this section, the CPAP provider shall immediately notify the**



1 department and file a new surety bond in an amount determined
2 by the director.

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

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

9 (h) Notices required under this section must be made in writing
10 and submitted through the NMLSR or any other electronic
11 registration system that may be approved by the director.

12 SECTION 49. IC 24-12-9-9 IS ADDED TO THE INDIANA CODE
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2019]: Sec. 9. (a) A license issued under this article must be
15 renewed not later than December 31 of each calendar year. The
16 minimum standards for license renewal for a CPAP provider
17 include the following:

18 (1) Payment by the CPAP provider of all required fees for
19 renewal of the license.

20 (2) The filing by the CPAP provider of all reports and
21 information required by the director.

22 (b) A license issued by the department under this article may be
23 revoked or suspended by the department if the person fails to:

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

25 (2) pay any license renewal fee described under section 5(h)(3)
26 of this chapter;

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

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

30 (1) Pay all delinquent fees and apply for reinstatement of the
31 license.

32 (2) Appeal the revocation or suspension to the department for
33 an administrative review under IC 4-21.5-3.

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

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

37 (1) an original application for licensure filed under this
38 chapter; or

39 (2) a renewal application filed under this chapter;

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



1 SECTION 50. IC 24-12-9-10 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2019]: **Sec. 10. (a) The department may issue**
 4 **to a person licensed under this article an order to show cause why**
 5 **the license should not be revoked or suspended for a period**
 6 **determined by the department.**

7 **(b) An order issued under subsection (a) must:**

8 **(1) include:**

9 **(A) a statement of the place, date, and time for a meeting**
 10 **with the department, which date may not be less than ten**

11 **(10) days from the date of the order;**

12 **(B) a description of the action contemplated by the**
 13 **department; and**

14 **(C) a statement of the facts or conduct supporting the**
 15 **issuance of the order; and**

16 **(2) be accompanied by a notice stating that the licensee is**
 17 **entitled to:**

18 **(A) a reasonable opportunity to be heard; and**

19 **(B) show the licensee's compliance with all lawful**
 20 **requirements for retention of the license;**

21 **at the meeting described in subdivision (1)(A).**

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

25 **(1) the licensee has repeatedly and willfully violated:**

26 **(A) this article or any applicable rule, order, or guidance**
 27 **document adopted or issued by the department; or**

28 **(B) any other Indiana or federal laws, rules, or regulations**
 29 **applicable to CPAP transactions;**

30 **(2) the licensee does not meet the licensing qualifications set**
 31 **forth in this chapter;**

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

34 **(4) the licensee knowingly or intentionally made material**
 35 **misrepresentations to, or concealed material information**
 36 **from, the department; or**

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

40 **(d) Whenever the department revokes or suspends a license, the**
 41 **department shall enter an order to that effect and notify the**
 42 **licensee of:**



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

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

11 (e) Any person holding a license to enter into CPAP transactions
 12 may relinquish the license by notifying the department in writing
 13 of the relinquishment, but the relinquishment does not affect the
 14 person's liability for acts previously committed and coming within
 15 the scope of this article.

16 (f) If the director determines it is in the public interest, the
 17 director may pursue revocation of a license of a licensee that has
 18 relinquished the license under subsection (e).

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

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

27 SECTION 51. IC 24-12-9-11 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2019]: **Sec. 11. (a)** A CPAP provider required
 30 to be licensed under this article shall maintain records in
 31 conformity with United States generally accepted accounting
 32 principles and practices in a manner that will enable the
 33 department to determine whether the licensee is complying with
 34 the provisions of this article. The record keeping system of a
 35 licensee shall be sufficient if the licensee makes the required
 36 information reasonably available. The department shall determine
 37 the sufficiency of the records and whether the licensee has made
 38 the required information reasonably available. The department
 39 shall be given free access to the records wherever located. The
 40 records concerning any CPAP transaction shall be retained for two
 41 (2) years after making the final entry relating to the CPAP
 42 transaction. A person licensed or required to be licensed under this



1 article is subject to IC 28-1-2-30.5 with respect to any records
2 maintained by the person.

3 (b) If the director designates under section 4 of this chapter the
4 NMLSR as the sole entity responsible for performing any of the
5 activities described in section 4(a) of this chapter, the unique
6 identifier of any licensee must be clearly shown on all CPAP
7 transaction documents furnished by the licensee to a consumer
8 claimant and on any other documents as required by the director.

9 (c) If the director designates under section 4 of this chapter the
10 NMLSR as the sole entity responsible for performing any of the
11 activities described in section 4(a) of this chapter, a CPAP provider
12 that is licensed by the department under this article and that
13 engages in CPAP transactions shall submit to the NMLSR a call
14 report, which must be in the form and contain information the
15 NMLSR requires, if required by the director.

16 (d) A CPAP provider required to be licensed under this article
17 shall file with the department a composite report as required by
18 the department, but not more frequently than annually, in the form
19 prescribed by the department relating to all CPAP transactions
20 entered into by the licensee. The department shall consult with
21 comparable officials in other states for the purpose of making the
22 kinds of information required in the reports uniform among the
23 states. Information contained in the reports shall be confidential
24 and may be published only in composite form. The department
25 may impose a fee in an amount fixed by the department under
26 IC 28-11-3-5 for each day that a CPAP provider fails to file the
27 report required by this subsection.

28 (e) A CPAP provider required to be licensed under this article
29 shall file notification with the department if the CPAP provider:

- 30 (1) has a change in name, address, or principals;
- 31 (2) opens a new branch, closes an existing branch, or relocates
32 an existing branch;
- 33 (3) files for bankruptcy or reorganization; or
- 34 (4) is subject to revocation or suspension proceedings by a
35 state or governmental authority with regard to the licensee's
36 activities;

37 not later than thirty (30) days after the date of the event described
38 in this subsection.

39 (f) A licensee shall file notification with the department if the
40 licensee or any director, executive officer, or manager of the
41 licensee has been convicted of a felony under the laws of Indiana or
42 any other jurisdiction. The licensee shall file the notification



1 required by this subsection not later than thirty (30) days after the
2 date of the event described in this subsection.

3 SECTION 52. IC 24-12-9-12 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) As used in this section,
6 "control" means possession of the power directly or indirectly to:

- 7 (1) direct or cause the direction of the management or policies
8 of a CPAP provider, whether through the beneficial
9 ownership of voting securities, by contract, or otherwise; or
10 (2) vote at least twenty-five percent (25%) of the voting
11 securities of a CPAP provider, whether the voting rights are
12 derived through the beneficial ownership of voting securities,
13 by contract, or otherwise.

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

24 (c) The period for approval under subsection (b) may be
25 extended:

- 26 (1) in the discretion of the director for an additional thirty
27 (30) days; and
28 (2) not more than two (2) additional times for not more than
29 forty-five (45) days each time if:

- 30 (A) the director determines that the organization,
31 individual, or individuals who propose to acquire control
32 have not submitted substantial evidence of the
33 qualifications described in subsection (d);
34 (B) the director determines that any material information
35 submitted is substantially inaccurate; or
36 (C) the director has been unable to complete the
37 investigation of the organization, individual, or individuals
38 who propose to acquire control because of any delay
39 caused by or the inadequate cooperation of the
40 organization, individual, or individuals.

41 (d) The department shall issue a notice approving the
42 application only after the department is satisfied that both of the



1 following apply:

2 (1) The organization, individual, or individuals who propose
3 to acquire control are qualified by competence, experience,
4 character, and financial responsibility to control and operate
5 the CPAP provider in a legal and proper manner.

6 (2) The interests of the owners and creditors of the CPAP
7 provider and the interests of the public generally will not be
8 jeopardized by the proposed change in control.

9 (e) The director may determine, in the director's discretion, that
10 subsection (b) does not apply to a transaction if the director
11 determines that the direct or beneficial ownership of the CPAP
12 provider will not change as a result of the transaction.

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

21 (g) Depending on the circumstances of the transaction, the
22 director may reserve the right to require the organization,
23 individual, or individuals who propose to acquire control of a
24 CPAP provider licensed under this article to apply for a new
25 license under this chapter, instead of acquiring control of the
26 licensee under this section.

27 SECTION 53. IC 28-1-2-6.5, AS AMENDED BY P.L.73-2016,
28 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2019]: Sec. 6.5. (a) A financial institution (as defined in
30 IC 28-1-1-3(1)), except for a licensee under IC 24-4.4, IC 24-4.5, or
31 750 IAC 9, shall comply with ~~all state and federal money laundering~~
32 ~~statutes and regulations, including~~ the following:

33 (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.).

34 (2) The USA Patriot Act of 2001 (P.L. 107-56).

35 (3) Any regulations, policies, or reporting requirements
36 established by the Financial Crimes Enforcement Network of the
37 United States Department of the Treasury.

38 (4) **Subchapter II of Chapter 53 of Title 31 of the United**
39 **States Code, including 31 U.S.C. 5318(l), and 31 CFR Chapter**
40 **X, including 31 CFR 1020.220.**

41 ~~(4)~~ (5) Any other state or federal money laundering statutes or
42 regulations that apply to a financial institution (as defined in



- 1 IC 28-1-1-3(1)) other than a licensee under IC 24-4.4, IC 24-4.5,
 2 or 750 IAC 9.
- 3 (b) The department shall do the following:
- 4 (1) To the extent authorized or required by state law, investigate
 5 potential violations of, and enforce compliance with, state money
 6 laundering statutes or regulations.
- 7 (2) Investigate potential violations of federal money laundering
 8 statutes or regulations and, to the extent authorized or required by
 9 federal law:
- 10 (A) enforce compliance with the federal statutes or
 11 regulations; or
- 12 (B) refer suspected violations of the federal statutes or
 13 regulations to the appropriate federal regulatory agencies.
- 14 SECTION 54. IC 28-1-3.1-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The department
 16 may take possession of the business and property of any financial
 17 institution except a ~~consumer finance institution~~ **creditor** licensed to
 18 make supervised or regulated loans under IC 24-4.5, whenever it
 19 appears to the department that the financial institution:
- 20 (1) is insolvent or in imminent danger of insolvency;
 21 (2) is in an unsafe or unsound condition;
 22 (3) has refused to pay its deposits or obligations in accordance
 23 with the terms under which those deposits or obligations were
 24 incurred;
 25 (4) has refused to submit its records and affairs for inspection or
 26 examination by the department or federal authorities;
 27 (5) has violated any court order, statute, rule, or regulation of the
 28 department or its articles of incorporation and that continued
 29 control of its own affairs threatens injury to the public, the
 30 financial community, its depositors, or other creditors;
 31 (6) requests through its board of directors that the department take
 32 possession for the benefit of depositors, other creditors,
 33 shareholders, or other persons;
 34 (7) has an impairment of its capital (the capital of a bank or trust
 35 company shall, for the purpose of this subdivision, be considered
 36 to be unimpaired so long as the sound value of its assets over and
 37 above its liabilities, exclusive of liabilities for capital notes,
 38 debentures, and capital stock, as determined by the department,
 39 equals or exceeds the minimum capital or capital stock required
 40 by the department for a bank or trust company);
 41 (8) has neglected or refused, for a period of thirty (30) days, to
 42 comply with the terms of a duly issued order of the department,



1 essential to preserve the solvency of the financial institution;
 2 (9) has failed to pay the fees charged by the department under
 3 IC 28-11-3-5 after due notice of the amount of the fee has been
 4 given;
 5 (10) has breached a fiduciary duty under IC 30-4-3-6; or
 6 (11) has violated IC 30-4-3-7 in a way that has caused or may
 7 cause harm to fiduciary accounts.

8 (b) When the department makes a determination to take possession
 9 of the business and property of a financial institution under subsection
 10 (a), the department shall:

11 (1) make a finding to that effect and enter that finding on the
 12 records of the proceedings of the department; and
 13 (2) cause a certified copy of the finding to be served on the
 14 president or other executive officer actively in charge of the
 15 financial institution and demand possession of the business,
 16 property, and records of the financial institution from the officer.
 17 The financial institution shall immediately surrender the
 18 possession to the department.

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

22 SECTION 55. IC 28-1-29-5.5, AS AMENDED BY P.L.73-2016,
 23 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 5.5. (a) As used in this section, "Nationwide
 25 Multistate Licensing System and Registry" (or "Nationwide Mortgage
 26 Licensing System and Registry" or "NMLSR") means a multistate
 27 licensing system owned and operated by the State Regulatory Registry,
 28 LLC, or by any successor or affiliated entity, for the licensing and
 29 registration of creditors, mortgage loan originators, and other mortgage
 30 or financial services entities and their employees and agents. The term
 31 includes any other name or acronym that may be assigned to the system
 32 by the State Regulatory Registry, LLC, or by any successor or affiliated
 33 entity.

34 (b) Subject to subsection (g), the director may designate the
 35 NMLSR to serve as the sole entity responsible for:

36 (1) processing applications and renewals for licenses under this
 37 chapter;
 38 (2) issuing unique identifiers for licensees and entities exempt
 39 from licensing under this chapter; and
 40 (3) performing other services that the director determines are
 41 necessary for the orderly administration of the department's
 42 licensing system under this chapter.



1 (c) Subject to the confidentiality provisions contained in IC 5-14-3
 2 and this section, the director ~~shall~~ **may** regularly report significant or
 3 recurring violations of this chapter to the NMLSR.

4 (d) Subject to the confidentiality provisions contained in IC 5-14-3
 5 and this section, the director may report complaints received regarding
 6 licensees under this chapter to the NMLSR.

7 (e) The director may report publicly adjudicated licensure actions
 8 against a licensee to the NMLSR.

9 (f) The director shall establish a process by which licensees may
 10 challenge information reported to the NMLSR by the department.

11 (g) The director's authority to designate the NMLSR under
 12 subsection (b) is subject to the following:

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

15 (A) obtain information from the NMLSR, unless the person is
 16 authorized to do so by statute;

17 (B) initiate any civil action based on information obtained
 18 from the NMLSR if the information is not otherwise available
 19 to the person under any other state law; or

20 (C) initiate any civil action based on information obtained
 21 from the NMLSR if the person could not have initiated the
 22 action based on information otherwise available to the person
 23 under any other state law.

24 (2) Documents, materials, and other forms of information in the
 25 control or possession of the NMLSR that are confidential under
 26 state or federal law and that are:

27 (A) furnished by the director, the director's designee, or a
 28 licensee; or

29 (B) otherwise obtained by the NMLSR;

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

36 (3) Disclosure of documents, materials, and information:

37 (A) to the director; or

38 (B) by the director;

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

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



- 1 (5) This subsection does not limit or impair a person's right to:
 2 (A) obtain information;
 3 (B) use information as evidence in a civil action or
 4 proceeding; or
 5 (C) use information to initiate a civil action or proceeding;
 6 if the information may be obtained from the director or the
 7 director's designee under any law.
- 8 (6) The requirements under any federal law or IC 5-14-3
 9 regarding the privacy or confidentiality of any information or
 10 material provided to the NMLSR, and any privilege arising under
 11 federal or state law, including the rules of any federal or state
 12 court, with respect to the information or material, continue to
 13 apply to the information or material after the information or
 14 material has been disclosed to the NMLSR. The information and
 15 material may be shared with all state and federal regulatory
 16 officials with financial services industry oversight authority
 17 without the loss of privilege or the loss of confidentiality
 18 protections provided by federal law or IC 5-14-3.
- 19 (7) For purposes of this section, the director may enter agreements
 20 or sharing arrangements with other governmental agencies, the
 21 Conference of State Bank Supervisors, or other associations
 22 representing governmental agencies, as established by rule or
 23 order of the director.
- 24 (8) Information or material that is subject to a privilege or
 25 confidentiality under subdivision (6) is not subject to:
 26 (A) disclosure under any federal or state law governing the
 27 disclosure to the public of information held by an officer or an
 28 agency of the federal government or the respective state; or
 29 (B) subpoena, discovery, or admission into evidence in any
 30 private civil action or administrative process, unless with
 31 respect to any privileged information or material held by the
 32 NMLSR, the person to whom the information or material
 33 pertains waives, in whole or in part, in the discretion of the
 34 person, that privilege.
- 35 (9) Any provision of IC 5-14-3 that concerns the disclosure of:
 36 (A) confidential supervisory information; or
 37 (B) any information or material described in subdivision (6);
 38 and that is inconsistent with subdivision (6) is superseded by this
 39 section.
- 40 (10) This section does not apply with respect to information or
 41 material that concerns the employment history of, and publicly
 42 adjudicated disciplinary and enforcement actions against, a



- 1 person described in section 5(b)(2), 5(b)(3), or 5(b)(4) of this
 2 chapter and that is included in the NMLSR for access by the
 3 public.
- 4 (11) The director may require a licensee required to submit
 5 information to the NMLSR to pay a processing fee considered
 6 reasonable by the director. In determining whether the NMLSR
 7 processing fee is reasonable, the director shall:
- 8 (A) require review of; and
 - 9 (B) make available;
- 10 the audited financial statements of the NMLSR.
- 11 (12) Notwithstanding any other provision of law, any:
- 12 (A) application, renewal, or other form or document that:
 - 13 (i) relates to licenses issued under this chapter; and
 - 14 (ii) is made or produced in an electronic format;
 - 15 (B) document filed as an electronic record in a multistate
 16 automated repository established and operated for the
 17 licensing or registration of financial services entities and their
 18 employees; or
 - 19 (C) electronic record filed through the NMLSR;
- 20 is considered a valid original document when reproduced in paper
 21 form by the department.
- 22 SECTION 56. IC 28-1-29-6, AS AMENDED BY P.L.216-2013,
 23 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 6. (a) Each application for a license must be
 25 accompanied by proof that the applicant has executed a surety bond in
 26 accordance with this section.
- 27 (b) A surety bond issued under this section must:
 - 28 (1) be in a form prescribed by the director;
 - 29 (2) be in effect during the term of the license issued under this
 30 chapter;
 - 31 (3) remain in effect during the two (2) years after the licensee
 32 ceases offering debt management services to individuals in
 33 Indiana;
 - 34 (4) be payable to the department for the benefit of:
 - 35 (A) the state; and
 - 36 (B) individuals who reside in Indiana when they agree to
 37 receive debt management services from the licensee;
 - 38 (5) be in an amount equal to:
 - 39 (A) fifty thousand dollars (\$50,000), in the case of an initial
 40 surety bond issued under this section; or
 - 41 (B) the amount prescribed under subsection (d), beginning
 42 with the first renewal of a license under this chapter;



1 (6) be issued by a bonding, surety, or insurance company
2 authorized to do business in Indiana and rated at least "A-" by at
3 least one (1) nationally recognized investment rating service; and
4 (7) have payment conditioned upon the licensee's or any of the
5 licensee's employees' or agents' noncompliance with or violation
6 of this chapter or other applicable federal or state laws or
7 regulations.

8 (c) The director may adopt rules or guidance documents with
9 respect to the requirements for a surety bond as necessary to
10 accomplish the purposes of this chapter.

11 (d) Beginning with the first renewal of a license under this chapter,
12 each year that a licensee continues to offer debt management services
13 to individuals in Indiana, the licensee shall file a new or an additional
14 surety bond in an amount that ensures that the licensee's surety bond
15 under this section is equal to the greater of the following:

16 (1) fifty thousand dollars (\$50,000); or

17 (2) the average of the highest daily balance of funds held in trust
18 for Indiana residents for each month during the licensee's most
19 recently concluded fiscal year, not to exceed one hundred
20 thousand dollars (\$100,000).

21 (e) If the principal amount of a surety bond required under this
22 section is reduced by payment of a claim or judgment, the licensee for
23 whom the bond is issued shall immediately notify the director of the
24 reduction and, not later than thirty (30) days after notice by the
25 director, file a new or an additional surety bond in an amount set by the
26 director. The amount of the new or additional bond set by the director
27 must be at least the amount of the bond before payment of the claim or
28 judgment.

29 (f) If for any reason a surety terminates a bond issued under this
30 section, the licensee shall immediately notify the department and file
31 a new surety bond in an amount as prescribed in subsection (b)(5).

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

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

38 (i) Notices required under this section must be **made** in writing and
39 **delivered by certified mail, return receipt requested and postage**
40 **prepaid, or by overnight delivery using a nationally recognized carrier.**
41 **submitted through the NMLSR or any other electronic registration**
42 **system that may be approved by the director.**



1 SECTION 57. IC 28-5-1-5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. The capital stock of
 3 any company engaged in business under the provisions of this chapter:

4 (1) shall be ~~not less than fifty thousand dollars (\$50,000), which~~
 5 ~~said capital stock in an amount determined by the department~~
 6 **based on the risk profile and business activity of the company**
 7 **during any application or approval process required by the**
 8 **department under this chapter;**

9 (2) shall be fully paid to the corporation in cash; and

10 (3) shall not at any time thereafter be voluntarily reduced below
 11 the amount originally paid in.

12 **Ongoing capital requirements shall be risk-based, as determined**
 13 **by the department.** In the event the capital of any such company
 14 should for any reason become impaired, **as determined by the**
 15 **department,** the right to issue certificates of indebtedness or
 16 investment as provided in this chapter shall forthwith be suspended
 17 until said capital stock has been restored to ~~the an amount originally~~
 18 ~~paid in:~~ **determined prudent by the department.**

19 SECTION 58. IC 28-7-1-17, AS AMENDED BY P.L.69-2018,
 20 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2019]: Sec. 17. (a) Every loan application shall be submitted
 22 on a form approved by the credit union. Loans may be ~~dispersed~~
 23 **disbursed** upon written approval by a majority of the credit committee
 24 or a loan officer. If the credit committee or loan officer fails to approve
 25 an application for a loan, the applicant may appeal to the board of
 26 directors, if such appeal is authorized by the bylaws.

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

29 (1) All loans shall be evidenced by notes signed by the borrowing
 30 member.

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

37 (3) Loans may be made upon the security of improved or
 38 unimproved real estate. Except as otherwise specified in this
 39 section, such loans must be secured by a first lien upon real estate
 40 prior to all other liens, except for taxes and assessments not
 41 delinquent, and may be made with repayment terms other than as
 42 provided in subdivision (2). The credit union loan folder for all



- 1 real estate mortgage loans shall include the following:
- 2 (A) The loan application.
- 3 (B) The mortgage instrument.
- 4 (C) The note.
- 5 (D) The disclosure statement.
- 6 (E) The documentation of property insurance.
- 7 (F) For the real estate for which the loan is made, a written
- 8 appraisal, which must be performed by a state licensed or
- 9 certified appraiser designated by the board of directors if the
- 10 amount of the loan is at least two hundred fifty thousand
- 11 dollars (\$250,000).
- 12 (4) Loans made upon security of real estate are subject to the
- 13 following restrictions:
- 14 (A) Real estate loans in which no principal amortization is
- 15 required shall provide for the payment of interest at least
- 16 annually and shall mature within five (5) years of the date of
- 17 the loan unless extended and shall not exceed fifty percent
- 18 (50%) of the fair cash value of the real estate used as security.
- 19 (B) Real estate loans on improved real estate, except for
- 20 variable rate mortgage loans and rollover mortgage loans
- 21 provided for in subdivision (5), shall require substantially
- 22 equal payments at successive intervals of not more than one
- 23 (1) year, shall mature within thirty (30) years, and shall not
- 24 exceed one hundred percent (100%) of the fair cash value of
- 25 the real estate used as security.
- 26 (C) Loans primarily secured by a mortgage which constitutes
- 27 a second lien on improved real estate may be made only if the
- 28 aggregate amount of all loans on the real estate does not
- 29 exceed one hundred percent (100%) of the fair cash value of
- 30 the real estate after such loan is made. Repayment terms shall
- 31 be in accordance with subdivision (2).
- 32 (D) Real estate loans may be made for the construction of
- 33 improvements to real property. Funds borrowed may be
- 34 advanced as work on the improvements progresses.
- 35 Repayment terms must comply with subdivision (2).
- 36 (5) Subject to the limitations of subdivision (3), variable rate
- 37 mortgage loans and rollover mortgage loans may be made under
- 38 the same limitations and rights provided state chartered savings
- 39 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or
- 40 federal credit unions.
- 41 (6) As used in this subdivision, "originating lender" means the
- 42 participating lender with which the member contracts. A credit



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

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

19 (A) Any loan that may be made by a federal credit union.

20 However, IC 24-4.5 applies to any loan that is:

- 21 (i) made under this clause; and
- 22 (ii) within the scope of IC 24-4.5.

23 Any provision of federal law that is in conflict with IC 24-4.5
 24 does not apply to a loan made under this clause.

25 (B) Subject to subdivision (3), any alternative mortgage loan
 26 (as defined in IC 28-15-11-2) that may be made by a savings
 27 association (as defined in IC 28-15-1-11) under IC 28-15-11.

28 A loan made under this clause by a credit union is subject to
 29 the same terms, conditions, exceptions, and limitations that
 30 apply to an alternative mortgage loan made by a savings
 31 association under IC 28-15-11.

32 (8) A credit union may make a loan under either:

- 33 (A) subdivisions (2) through (6); or
- 34 (B) subdivision (7);

35 but not both. A credit union shall make an initial determination as
 36 to whether to make a loan under subdivisions (2) through (6) or
 37 under subdivision (7). If the credit union determines that a loan or
 38 category of loans is to be made under subdivision (7), the written
 39 loan policies of the credit union must include that determination.
 40 A credit union may not combine the terms and conditions that
 41 apply to a loan made under subdivisions (2) through (6) with the
 42 terms and conditions that apply to a loan made under subdivision



1 (7) to make a loan not expressly described and authorized either
 2 under subdivisions (2) through (6) or under subdivision (7).

3 (c) Nothing in this section prevents any credit union from taking an
 4 indemnifying or second mortgage on real estate as additional security.

5 SECTION 59. IC 28-7-5-8, AS AMENDED BY P.L.89-2011,
 6 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2019]: Sec. 8. (a) Upon an applicant's filing of the application
 8 required by section 4 of this chapter and payment of the license fee, if
 9 the department finds the financial standing, competence, business
 10 experience, and character of:

11 (1) the applicant ~~any employee of the applicant~~; and any
 12 significant affiliate of the applicant;

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

16 (3) if known, each person directly or indirectly owning of record
 17 or owning beneficially at least ten percent (10%) of the
 18 outstanding shares of any class of equity security of the applicant;
 19 are such that the business will be operated honestly, fairly, and
 20 efficiently and that the convenience and needs of the public exist for
 21 the operation of the business in the community wherein the applicant
 22 proposes to operate, it shall issue and deliver a license to the applicant,
 23 which license shall authorize the applicant to engage in the business of
 24 pawnbroking.

25 (b) The director is entitled to request evidence of compliance with
 26 the requirements of this section by the licensee, including any affiliate
 27 or person described in subsection (a), at:

28 (1) the time of issuance of the license;

29 (2) the time of renewal of the license; or

30 (3) any other time considered necessary by the director.

31 A license shall remain in effect until it is surrendered, revoked, or
 32 suspended. If the department denies the application, it shall notify the
 33 applicant of the denial. The department may hold a public hearing if
 34 the department considers the hearing necessary.

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

38 (d) If a licensee replaces a manager, the licensee shall give the
 39 department written notice of the replacement not later than thirty (30)
 40 days after engaging another person to serve as manager.

41 SECTION 60. IC 28-8-4-20.5, AS AMENDED BY P.L.159-2017,
 42 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2019]: Sec. 20.5. (a) As used in this section, "Nationwide
 2 Multistate Licensing System and Registry" (or "Nationwide Mortgage
 3 Licensing System and Registry" or "NMLSR") means a multistate
 4 licensing system owned and operated by the State Regulatory Registry,
 5 LLC, or by any successor or affiliated entity, for the licensing and
 6 registration of creditors, mortgage loan originators, and other financial
 7 services entities and their employees and agents. The term includes any
 8 other name or acronym that may be assigned to the system by the State
 9 Regulatory Registry, LLC, or by any successor or affiliated entity.

10 (b) Subject to subsection (g), the director may designate the
 11 NMLSR to serve as the sole entity responsible for:

- 12 (1) processing applications and renewals for licenses under this
 13 chapter;
- 14 (2) issuing unique identifiers for licensees and entities exempt
 15 from licensing under this chapter; and
- 16 (3) performing other services that the director determines are
 17 necessary for the orderly administration of the department's
 18 licensing system under this chapter.

19 (c) Subject to the confidentiality provisions contained in IC 5-14-3,
 20 this section, and section 47 of this chapter, the director ~~shall~~ **may**
 21 regularly report significant or recurring violations of this chapter to the
 22 NMLSR.

23 (d) Subject to the confidentiality provisions contained in IC 5-14-3,
 24 this section, and section 47 of this chapter, the director may report
 25 complaints received regarding licensees under this chapter to the
 26 NMLSR.

27 (e) The director may report publicly adjudicated licensure actions
 28 against a licensee to the NMLSR.

29 (f) The director shall establish a process by which licensees may
 30 challenge information reported to the NMLSR by the department.

31 (g) The director's authority to designate the NMLSR under
 32 subsection (b) is subject to the following:

- 33 (1) Information stored in the NMLSR is subject to the
 34 confidentiality provisions of IC 5-14-3 and section 47 of this
 35 chapter. A person may not:
 - 36 (A) obtain information from the NMLSR, unless the person is
 37 authorized to do so by statute;
 - 38 (B) initiate any civil action based on information obtained
 39 from the NMLSR if the information is not otherwise available
 40 to the person under any other state law; or
 - 41 (C) initiate any civil action based on information obtained
 42 from the NMLSR if the person could not have initiated the



- 1 action based on information otherwise available to the person
 2 under any other state law.
- 3 (2) Documents, materials, and other forms of information in the
 4 control or possession of the NMLSR that are confidential under
 5 section 47 of this chapter and that are:
- 6 (A) furnished by the director, the director's designee, or a
 7 licensee; or
- 8 (B) otherwise obtained by the NMLSR;
- 9 are confidential and privileged by law and are not subject to
 10 inspection under IC 5-14-3, subject to subpoena, subject to
 11 discovery, or admissible in evidence in any civil action. However,
 12 the director may use the documents, materials, or other
 13 information available to the director in furtherance of any action
 14 brought in connection with the director's duties under this chapter.
- 15 (3) Disclosure of documents, materials, and information:
- 16 (A) to the director; or
- 17 (B) by the director;
- 18 under this subsection does not result in a waiver of any applicable
 19 privilege or claim of confidentiality with respect to the
 20 documents, materials, or information.
- 21 (4) Information provided to the NMLSR is subject to IC 4-1-11.
- 22 (5) This subsection does not limit or impair a person's right to:
- 23 (A) obtain information;
- 24 (B) use information as evidence in a civil action or
 25 proceeding; or
- 26 (C) use information to initiate a civil action or proceeding;
- 27 if the information may be obtained from the director or the
 28 director's designee under any law.
- 29 (6) The requirements under any federal law or IC 5-14-3
 30 regarding the privacy or confidentiality of any information or
 31 material provided to the NMLSR, and any privilege arising under
 32 federal or state law, including the rules of any federal or state
 33 court, with respect to the information or material, continue to
 34 apply to the information or material after the information or
 35 material has been disclosed to the NMLSR. The information and
 36 material may be shared with all state and federal regulatory
 37 officials with financial services industry oversight authority
 38 without the loss of privilege or the loss of confidentiality
 39 protections provided by federal law or IC 5-14-3.
- 40 (7) For purposes of this section, the director may enter agreements
 41 or sharing arrangements with other governmental agencies, the
 42 Conference of State Bank Supervisors, the Money Transmitters



- 1 Regulators Association, or other associations representing
 2 governmental agencies, as established by rule or order of the
 3 director.
- 4 (8) Information or material that is subject to a privilege or
 5 confidentiality under subdivision (6) is not subject to:
 6 (A) disclosure under any federal or state law governing the
 7 disclosure to the public of information held by an officer or an
 8 agency of the federal government or the respective state; or
 9 (B) subpoena, discovery, or admission into evidence in any
 10 private civil action or administrative process, unless with
 11 respect to any privilege held by the NMLSR with respect to
 12 the information or material, the person to whom the
 13 information or material pertains waives, in whole or in part, in
 14 the discretion of the person, that privilege.
- 15 (9) Any provision of IC 5-14-3 that concerns the disclosure of:
 16 (A) confidential supervisory information; or
 17 (B) any information or material described in subdivision (6);
 18 and that is inconsistent with subdivision (6) is superseded by this
 19 section.
- 20 (10) This section does not apply with respect to information or
 21 material that concerns the employment history of, and publicly
 22 adjudicated disciplinary and enforcement actions against, a
 23 person described in section 35(b)(2) or 35(b)(3) of this chapter
 24 and that is included in the NMLSR for access by the public.
- 25 (11) The director may require a licensee required to submit
 26 information to the NMLSR to pay a processing fee considered
 27 reasonable by the director. In determining whether the NMLSR
 28 processing fee is reasonable, the director shall:
 29 (A) require review of; and
 30 (B) make available;
 31 the audited financial statements of the NMLSR.
- 32 (12) Notwithstanding any other provision of law, any:
 33 (A) application, renewal, or other form or document that:
 34 (i) relates to licenses issued under this chapter; and
 35 (ii) is made or produced in an electronic format;
 36 (B) document filed as an electronic record in a multistate
 37 automated repository established and operated for the
 38 licensing or registration of financial services entities and their
 39 employees; or
 40 (C) electronic record filed through the NMLSR;
 41 is considered a valid original document when reproduced in paper
 42 form by the department.



1 SECTION 61. IC 28-8-4-27, AS AMENDED BY P.L.216-2013,
2 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 27. (a) An application for licensure under this
4 chapter must be accompanied by a surety bond in accordance with this
5 section.

6 (b) The surety bond required under subsection (a) must:

7 (1) be in the amount of three hundred thousand dollars
8 (\$300,000);

9 (2) be in a form acceptable to the director;

10 (3) be in effect during the term of the license issued under this
11 chapter;

12 (4) remain in effect during the five (5) years after the licensee
13 ceases offering money transmission services in Indiana;

14 (5) be payable to the department for the benefit of:

15 (A) the state;

16 (B) individuals who reside in Indiana when they agree to
17 receive money transmission services from the licensee; and

18 (C) entities that do business in Indiana when they agree to
19 receive money transmission services from the licensee;

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

23 (7) have payment conditioned upon the licensee's or any of the
24 licensee's employees' or agents' noncompliance with or violation
25 of this chapter or other applicable federal or state laws or
26 regulations.

27 (c) The director may adopt rules or guidance documents with
28 respect to the requirements for a surety bond as necessary to
29 accomplish the purposes of this chapter.

30 (d) If the principal amount of a surety bond required under this
31 section is reduced by payment of a claim or judgment, the licensee for
32 whom the bond is issued shall immediately notify the director of the
33 reduction and, not later than thirty (30) days after notice by the
34 director, file a new or an additional surety bond in the amount needed
35 to restore the amount of the surety bond to three hundred thousand
36 dollars (\$300,000).

37 (e) If for any reason a surety terminates a bond issued under this
38 section, the licensee shall immediately notify the department and file
39 a new surety bond in the amount of three hundred thousand dollars
40 (\$300,000).

41 (f) Cancellation of a surety bond issued under this section does not
42 affect any liability incurred or accrued during the period when the



1 surety bond was in effect.

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

5 (h) Notices required under this section must be **made** in writing and
6 ~~delivered by certified mail, return receipt requested and postage~~
7 ~~prepaid, or by overnight delivery using a nationally recognized carrier.~~
8 **submitted through the NMLSR or any other electronic registration**
9 **system that may be approved by the director.**

10 SECTION 62. IC 28-10-1-1, AS AMENDED BY P.L.69-2018,
11 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2019]: Sec. 1. A reference to a federal law or federal
13 regulation in this title is a reference to the law or regulation as in effect
14 December 31, ~~2017~~. **2018.**

15 SECTION 63. IC 28-14-1-3 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. "Clearing
17 corporation" has the meaning set forth in ~~IC 26-1-8-102~~.
18 **IC 26-1-8.1-102.**

