



Reprinted  
April 9, 2019

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# ENGROSSED HOUSE BILL No. 1447

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DIGEST OF HB 1447 (Updated April 8, 2019 3:26 pm - DI 97)

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

**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  
(Continued next page)

**Effective:** July 1, 2019.

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## Burton, Ellington

(SENATE SPONSORS — BASSLER, ZAY, RUCKELSHAUS, FORD J.D.)

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January 15, 2019, read first time and referred to Committee on Financial Institutions.  
January 29, 2019, amended, reported — Do Pass.  
January 31, 2019, read second time, ordered engrossed. Engrossed.  
February 4, 2019, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 27, 2019, read first time and referred to Committee on Insurance and Financial Institutions.  
April 4, 2019, amended, reported favorably — Do Pass.  
April 8, 2019, read second time, amended, ordered engrossed.

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Digest Continued

disclosure requirements under the statute; and (3) may be in a sum larger than a regular rental payment. Prohibits leasing of, and rental purchase agreements involving, live domestic animals. 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.



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April 9, 2019

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.

## ENGROSSED HOUSE BILL No. 1447

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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

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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





- 1 following criteria are satisfied:
- 2 (A) Subject to clause (B), the organization originates only one
- 3 (1) or both of the following types of mortgage transactions:
- 4 (i) Zero (0) interest first lien mortgage transactions.
- 5 (ii) Zero (0) interest subordinate lien mortgage transactions.
- 6 (B) The organization does not require, under the terms of the
- 7 mortgage or otherwise, balloon payments with respect to the
- 8 mortgage transactions described in clause (A).
- 9 (C) The organization is exempt from federal income taxation
- 10 under Section 501(c)(3) of the Internal Revenue Code.
- 11 (D) The organization's primary purpose is to serve the public
- 12 by helping low income individuals and families build, repair,
- 13 and purchase housing.
- 14 (E) The organization uses only:
- 15 (i) unpaid volunteers; or
- 16 (ii) employees whose compensation is not based on the
- 17 number or size of any mortgage transactions that the
- 18 employees originate;
- 19 to originate the mortgage transactions described in clause (A).
- 20 (F) The organization does not charge loan origination fees in
- 21 connection with the mortgage transactions described in clause
- 22 (A).
- 23 (15) A bona fide nonprofit organization (as defined in section
- 24 301.5 of this chapter) if the following criteria are satisfied:
- 25 (A) For each calendar year that the organization seeks the
- 26 exemption provided by this subdivision, the organization
- 27 certifies, not later than December 31 of the preceding calendar
- 28 year and on a form prescribed by the director and accompanied
- 29 by such documentation as required by the director, that the
- 30 organization is a bona fide nonprofit organization (as defined
- 31 in section 301.5(45) of this chapter).
- 32 (B) The director determines that the organization originates
- 33 only mortgage transactions that are favorable to the debtor. For
- 34 purposes of this clause, a mortgage transaction is favorable to
- 35 the debtor if the director determines that the terms of the
- 36 mortgage transaction are consistent with terms of mortgage
- 37 transactions made in a public or charitable context, rather than
- 38 in a commercial context.
- 39 SECTION 12. IC 24-4.5-1-301.5, AS AMENDED BY P.L.69-2018,
- 40 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 41 JULY 1, 2019]: Sec. 301.5. In addition to definitions appearing in
- 42 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 24-4.5-2-407.5 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2019]: **Sec. 407.5. The leasing of live domestic  
27 animals (as defined in IC 34-30-30-1) under this chapter is  
28 prohibited.**

29 SECTION 14. IC 24-4.5-3-110 IS REPEALED [EFFECTIVE JULY  
30 1, 2019]. Sec. 110: (1) "Civil proceeding advance payment  
31 transaction", or "CPAP transaction", means a nonrecourse transaction  
32 in which a CPAP provider provides a funded amount to a consumer  
33 claimant to use for any purpose other than prosecuting the consumer  
34 claimant's civil proceeding, if the repayment of the funded amount is:

35 (a) required only if the consumer claimant prevails in the civil  
36 proceeding; and

37 (b) sourced from the proceeds of the civil proceeding, whether the  
38 proceeds result from a judgment, a settlement, or some other  
39 resolution.

40 (2) The term includes a transaction:

41 (a) that is termed or described as:

42 (i) a purchase; or



- 1 (ii) an assignment of an interest in a consumer claimant's civil  
 2 proceeding; or in the proceeds of a consumer claimant's civil  
 3 proceeding;  
 4 by the CPAP provider; or  
 5 (b) with respect to which the CPAP provider sets forth in a CPAP  
 6 contract, an agreement by:  
 7 (i) the CPAP provider to purchase from the consumer  
 8 claimant; or  
 9 (ii) the consumer claimant to assign to the CPAP provider;  
 10 a contingent right to receive a share of the potential proceeds of  
 11 the consumer claimant's civil proceeding; whether the proceeds  
 12 result from a judgment, a settlement, or some other resolution.
- 13 (3) Notwithstanding section 202(1)(i) of this chapter and section  
 14 502(6) of this chapter, a CPAP transaction is not a consumer loan.
- 15 SECTION 15. IC 24-4.5-3-110.5 IS REPEALED [EFFECTIVE  
 16 JULY 1, 2019]. Sec. 110.5: (1) "Civil proceeding"; with respect to a  
 17 CPAP transaction, means:  
 18 (a) a civil action;  
 19 (b) a mediation; an arbitration; or any other alternative dispute  
 20 resolution proceeding; or  
 21 (c) an administrative proceeding before:  
 22 (i) an agency or instrumentality of the state; or  
 23 (ii) a political subdivision; or an agency or instrumentality of  
 24 a political subdivision; of the state;  
 25 that is filed in; or is under the jurisdiction of; a court with jurisdiction  
 26 in Indiana; a tribunal in Indiana; or an agency or instrumentality  
 27 described in subdivision (c) in Indiana. The term includes all  
 28 proceedings arising out of or relating to the proceeding; including any  
 29 proceedings on appeal or remand; and any enforcement; ancillary; or  
 30 parallel proceedings.
- 31 (2) "Civil proceeding advance payment contract"; or "CPAP  
 32 contract"; means a contract for a CPAP transaction that a CPAP  
 33 provider enters into; or offers to enter into; with a consumer claimant.
- 34 (3) "Civil proceeding advance payment provider"; or "CPAP  
 35 provider"; means a person that:  
 36 (a) enters into; or offers to enter into; a CPAP transaction with a  
 37 consumer claimant in connection with a civil proceeding; and  
 38 (b) notwithstanding section 110(3) of this chapter; and subject to  
 39 IC 24-12-9; is licensed with the department in accordance with  
 40 this chapter and IC 24-12-9.
- 41 (4) "Consumer claimant"; with respect to a CPAP transaction;  
 42 means an individual:



- 1 (a) who is or may become a plaintiff, a claimant, or a demandant
- 2 in a civil proceeding; and
- 3 (b) who:
  - 4 (i) is offered a CPAP transaction by a CPAP provider; or
  - 5 (ii) enters into a CPAP transaction with a CPAP provider;
- 6 regardless of whether the individual is a resident of Indiana.
- 7 (5) "Funded amount", with respect to a CPAP transaction, means the
- 8 amount of money:
  - 9 (a) that is provided to the consumer claimant by the CPAP
  - 10 provider; and
  - 11 (b) the repayment of which is:
    - 12 (i) required only if the consumer claimant prevails in the
    - 13 consumer claimant's civil proceeding; and
    - 14 (ii) sourced from the proceeds of the civil proceeding; whether
    - 15 the proceeds result from a judgment, a settlement, or some
    - 16 other resolution;
- 17 regardless of the term used by the CPAP provider in the CPAP contract
- 18 to identify the amount.
- 19 SECTION 16. IC 24-4.5-3-202, AS AMENDED BY P.L.69-2018,
- 20 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2019]: Sec. 202. (1) In addition to the loan finance charge
- 22 permitted by this chapter, a lender may contract for and receive the
- 23 following additional charges in connection with a consumer loan:
  - 24 (a) Official fees and taxes.
  - 25 (b) Charges for insurance as described in subsection (2).
  - 26 (c) Annual participation fees assessed in connection with a
  - 27 revolving loan account. Annual participation fees must:
    - 28 (i) be reasonable in amount;
    - 29 (ii) bear a reasonable relationship to the lender's costs to
    - 30 maintain and monitor the loan account; and
    - 31 (iii) not be assessed for the purpose of circumvention or
    - 32 evasion of this article, as determined by the department.
  - 33 (d) With respect to a debt secured by an interest in land, the
  - 34 following closing costs, if they are bona fide, reasonable in
  - 35 amount, and not for the purpose of circumvention or evasion of
  - 36 this article:
    - 37 (i) Fees for title examination, abstract of title, title insurance,
    - 38 property surveys, or similar purposes.
    - 39 (ii) Fees for preparing deeds, mortgages, and reconveyance,
    - 40 settlement, and similar documents.
    - 41 (iii) Notary and credit report fees.
    - 42 (iv) Amounts required to be paid into escrow or trustee



- 1 accounts if the amounts would not otherwise be included in  
 2 the loan finance charge.
- 3 (v) Appraisal fees.
- 4 (e) Notwithstanding provisions of the Consumer Credit Protection  
 5 Act (15 U.S.C. 1601 et seq.) concerning disclosure, charges for  
 6 other benefits, including insurance, conferred on the debtor, if the  
 7 benefits are of value to the debtor and if the charges are  
 8 reasonable in relation to the benefits, and are excluded as  
 9 permissible additional charges from the loan finance charge. With  
 10 respect to any other additional charge not specifically provided  
 11 for in this section to be a permitted charge under this subsection,  
 12 the creditor must submit a written explanation of the charge to the  
 13 department indicating how the charge would be assessed and the  
 14 value or benefit to the debtor. Supporting documents may be  
 15 required by the department. The department shall determine  
 16 whether the charge would be of benefit to the debtor and is  
 17 reasonable in relation to the benefits.
- 18 (f) A charge not to exceed twenty-five dollars (\$25) for each  
 19 returned payment by a bank or other depository institution of a  
 20 dishonored check, electronic funds transfer, negotiable order of  
 21 withdrawal, or share draft issued by the debtor.
- 22 (g) With respect to a revolving loan account, a fee not to exceed  
 23 twenty-five dollars (\$25) in each billing cycle during which the  
 24 balance due under the revolving loan account exceeds by more  
 25 than one hundred dollars (\$100) the maximum credit limit for the  
 26 account established by the lender.
- 27 (h) With respect to a revolving loan account, a transaction fee that  
 28 may not exceed the lesser of the following:
- 29 (i) Two percent (2%) of the amount of the transaction.  
 30 (ii) Ten dollars (\$10).
- 31 (i) A charge not to exceed twenty-five dollars (\$25) for a  
 32 skip-a-payment service, subject to the following:
- 33 (i) At the time of use of the service, the consumer must be  
 34 given written notice of the amount of the charge and must  
 35 acknowledge the amount in writing, including by electronic  
 36 signature.
- 37 (ii) A charge for a skip-a-payment service may not be assessed  
 38 with respect to a consumer loan subject to the provisions on  
 39 rebate upon prepayment that are set forth in section 210 of this  
 40 chapter.
- 41 (iii) A charge for a skip-a-payment service may not be  
 42 assessed with respect to any payment for which a delinquency



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



- 1 be disclosed in writing to the consumer.
- 2 (ii) The charge for the initial term of coverage under the debt  
3 cancellation agreement must be disclosed in writing to the  
4 consumer. The charge may be disclosed on a unit-cost basis  
5 only in the case of revolving loan accounts, closed-end credit  
6 transactions if the request for coverage is made by mail or  
7 telephone, and closed-end credit transactions if the debt  
8 cancellation agreement limits the total amount of indebtedness  
9 eligible for coverage.
- 10 (iii) If the term of coverage under the debt cancellation  
11 agreement is less than the term of the consumer loan, the term  
12 of coverage under the debt cancellation agreement must be  
13 disclosed in writing to the consumer.
- 14 (iv) The consumer must sign or initial an affirmative written  
15 request for coverage after receiving all required disclosures.
- 16 (v) If debt cancellation coverage for two (2) or more events is  
17 provided for in a single charge under a debt cancellation  
18 agreement, the entire charge may be excluded from the loan  
19 finance charge and imposed as an additional charge under this  
20 section if at least one (1) of the events is the loss of life, health,  
21 or income.
- 22 The additional charges provided for in subdivisions (f) through ~~(k)~~ (j)  
23 are not subject to refund or rebate.
- 24 (2) An additional charge may be made for insurance in connection  
25 with the loan, other than insurance protecting the lender against the  
26 debtor's default or other credit loss:
- 27 (a) with respect to insurance against loss of or damage to property  
28 or against liability, if the lender furnishes a clear and specific  
29 statement in writing to the debtor, setting forth the cost of the  
30 insurance if obtained from or through the lender and stating that  
31 the debtor may choose the person, subject to the lender's  
32 reasonable approval, through whom the insurance is to be  
33 obtained; and
- 34 (b) with respect to consumer credit insurance providing life,  
35 accident, unemployment or other loss of income, or health  
36 coverage, if the insurance coverage is not a factor in the approval  
37 by the lender of the extension of credit and this fact is clearly  
38 disclosed in writing to the debtor, and if, in order to obtain the  
39 insurance in connection with the extension of credit, the debtor  
40 gives specific affirmative written indication of the desire to do so  
41 after written disclosure of the cost of the insurance.
- 42 (3) An additional charge may be made for a GAP agreement, subject



- 1 to the following:
- 2 (a) A GAP agreement or GAP coverage may not be required by
- 3 the lender, and that fact must be disclosed in writing to the
- 4 consumer.
- 5 (b) The charge for the initial term of coverage under the GAP
- 6 agreement must be disclosed in writing to the consumer. The
- 7 charge may be disclosed on a unit-cost basis only in the case of
- 8 the following transactions:
- 9 (i) Revolving loan accounts.
- 10 (ii) Closed-end credit transactions, if the request for coverage
- 11 is made by mail or telephone.
- 12 (iii) Closed-end credit transactions, if the GAP agreement
- 13 limits the total amount of indebtedness eligible for coverage.
- 14 (c) If the term of coverage under the GAP agreement is less than
- 15 the term of the consumer loan, the term of coverage under the
- 16 GAP agreement must be disclosed in writing to the consumer.
- 17 (d) The consumer must sign or initial an affirmative written
- 18 request for coverage after receiving all required disclosures.
- 19 (e) The GAP agreement must include the following:
- 20 (i) In the case of GAP coverage for a new motor vehicle, the
- 21 manufacturer's suggested retail price (MSRP) for the motor
- 22 vehicle.
- 23 (ii) In the case of GAP coverage for a used motor vehicle, the
- 24 National Automobile Dealers Association (NADA) average
- 25 retail value for the motor vehicle.
- 26 (iii) The name of the financing entity taking assignment of the
- 27 agreement, as applicable.
- 28 (iv) The name and address of the consumer.
- 29 (v) The name of the lender selling the agreement.
- 30 (vi) Information advising the consumer that the consumer may
- 31 be able to obtain similar coverage from the consumer's primary
- 32 insurance carrier.
- 33 (vii) A coverage provision that includes a minimum deductible
- 34 of five hundred dollars (\$500).
- 35 (viii) A provision providing for a minimum thirty (30) day trial
- 36 period.
- 37 (ix) In the case of a consumer loan made with respect to a
- 38 motor vehicle, a provision excluding the sale of GAP coverage
- 39 if the amount financed under the consumer loan (not including
- 40 the cost of the GAP agreement, the cost of any credit
- 41 insurance, and the cost of any warranties or service
- 42 agreements) is less than eighty percent (80%) of the





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



- 1 (6) As used in this section:  
 2 (a) "guaranteed asset protection agreement";  
 3 (b) "guaranteed auto protection agreement"; or  
 4 (c) "GAP agreement";  
 5 means, with respect to consumer loans involving motor vehicles or  
 6 other titled assets, an agreement in which the lender agrees to cancel  
 7 or waive all or part of the outstanding debt after all property insurance  
 8 benefits have been exhausted after the occurrence of a specified event.  
 9 (7) As used in this section, "skip-a-payment service" means a  
 10 service that:  
 11 (a) is offered by a lender to a consumer; and  
 12 (b) permits the consumer to miss or skip a payment due under a  
 13 consumer loan without resulting in default.  
 14 SECTION 17. IC 24-4.5-3-502, AS AMENDED BY P.L.153-2016,  
 15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2019]: Sec. 502. (1) A person that is a:  
 17 (a) depository institution;  
 18 (b) subsidiary that is owned and controlled by a depository  
 19 institution and regulated by a federal banking agency; or  
 20 (c) credit union service organization;  
 21 may engage in Indiana in the making of consumer loans (including  
 22 small loans that are subject to IC 24-4.5-7) that are not mortgage  
 23 transactions without obtaining a license under this article.  
 24 (2) A collection agency licensed under IC 25-11-1 may engage in:  
 25 (a) taking assignments of consumer loans (including small loans  
 26 that are subject to IC 24-4.5-7) that are not mortgage transactions;  
 27 and  
 28 (b) undertaking the direct collection of payments from or the  
 29 enforcement of rights against debtors arising from consumer loans  
 30 (including small loans that are subject to IC 24-4.5-7) that are not  
 31 mortgage transactions;  
 32 in Indiana without obtaining a license under this article.  
 33 (3) A person that does not qualify under subsection (1) or (2) shall  
 34 acquire and retain a license under this chapter in order to regularly  
 35 engage in Indiana in the following actions with respect to consumer  
 36 loans that are not small loans (as defined in IC 24-4.5-7-104) or  
 37 mortgage transactions:  
 38 (a) The making of consumer loans.  
 39 (b) Taking assignments of consumer loans.  
 40 (c) Undertaking the direct collection of payments from or the  
 41 enforcement of rights against debtors arising from consumer  
 42 loans.



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

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

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

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

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

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

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

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

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

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

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

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

39 (3) Subject to the confidentiality provisions contained in IC 5-14-3,  
 40 this section, and IC 28-1-2-30, the director may report to the NMLSR  
 41 complaints received regarding licensees under section 502 of this  
 42 chapter in connection with consumer loans that are not mortgage



- 1 transactions, including small loans under IC 24-4.5-7.
- 2 (4) The director may report to the NMLSR publicly adjudicated  
3 licensure actions against licensees under section 502 of this chapter.
- 4 (5) The director shall establish a process in which persons licensed  
5 in accordance with section 502 of this chapter may challenge  
6 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 28-1-2-30 and IC 5-14-3. 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) The requirements under any federal law or IC 5-14-3 regarding
- 6 the privacy or confidentiality of any information or material
- 7 provided to the NMLSR, and any privilege arising under federal
- 8 or state law, including the rules of any federal or state court, with
- 9 respect to the information or material, continue to apply to the
- 10 information or material after the information or material has been
- 11 disclosed to the NMLSR. The information and material may be
- 12 shared with all state and federal regulatory officials with financial
- 13 services industry oversight authority without the loss of privilege
- 14 or the loss of confidentiality protections provided by federal law
- 15 or IC 5-14-3.
- 16 (g) For purposes of this section, the director may enter agreements
- 17 or sharing arrangements with other governmental agencies, the
- 18 Conference of State Bank Supervisors, or other associations
- 19 representing governmental agencies as established by rule or
- 20 order of the director.
- 21 (h) Information or material that is subject to a privilege or
- 22 confidentiality under subdivision (f) is not subject to:
- 23                   (i) disclosure under any federal or state law governing the
- 24 disclosure to the public of information held by an officer or an
- 25 agency of the federal government or the respective state; or
- 26                   (ii) subpoena, discovery, or admission into evidence, in any
- 27 private civil action or administrative process, unless with
- 28 respect to any privileged information or material held by the
- 29 NMLSR, the person to whom the information or material
- 30 pertains waives, in whole or in part, in the discretion of the
- 31 person, that privilege.
- 32 (i) Any provision of IC 5-14-3 that concerns the disclosure of:
- 33                   (i) confidential supervisory information; or
- 34                   (ii) any information or material described in subdivision (f);
- 35 and that is inconsistent with subdivision (f) is superseded by this
- 36 section.
- 37 (j) This section does not apply with respect to information or
- 38 material that concerns the employment history of, and publicly
- 39 adjudicated disciplinary and enforcement actions against, a
- 40 person licensed in accordance with section 502 of this chapter and
- 41 described in section 503(2) of this chapter and that is included in
- 42 the NMLSR for access by the public.



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

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

7 the audited financial statements of the NMLSR.

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

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

- 10 (i) relates to licenses issued under section 502 of this chapter;
- 11 and
- 12 (ii) is made or produced in an electronic format;

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

16 (c) electronic record filed through the NMLSR;

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

19 SECTION 19. IC 24-4.5-3-503, AS AMENDED BY P.L.27-2012,  
 20 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2019]: Sec. 503. (1) The department shall receive and act on  
 22 all applications for licenses to make consumer loans. Applications must  
 23 be as prescribed by the director of the department of financial  
 24 institutions. If, at any time, the information or record contained in:

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

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

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

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

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

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

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

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



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

- 3 (a) the time of application;  
4 (b) the time of renewal of a license; or  
5 (c) any other time considered necessary by the director.

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

- 9 (a) criminal background checks as described in section 503.1 of  
10 this chapter, including a national criminal history background  
11 check (as defined in IC 10-13-3-12) by the Federal Bureau of  
12 Investigation, for any individual described in subsection (2);  
13 (b) credit histories as described in section 503.2 of this chapter;  
14 (c) surety bond requirements as described in section 503.3 of this  
15 chapter;  
16 (d) a review of licensure actions in Indiana and other states; and  
17 (e) other background checks considered necessary by the director.

18 (5) For purposes of this section and in order to reduce the points of  
19 contact that the director may have to maintain under this section, the  
20 director may use the NMLSR as a channeling agent for requesting and  
21 distributing information to and from any source as directed by the  
22 director.

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

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

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

- 32 (a) An initial license fee as established by the department under  
33 IC 28-11-3-5.  
34 (b) Examination fees as established by the department under  
35 IC 28-11-3-5.  
36 (c) An annual renewal fee as established by the department under  
37 IC 28-11-3-5.

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

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



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

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

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

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

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

15 (a) creditor licensed by the department to engage in mortgage  
 16 transactions; and

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

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

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

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

24 (2) A surety bond must:

25 (a) provide coverage for:

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

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

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

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

30 (c) be in effect:

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

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

37 as applicable;

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

39 (i) the creditor ceases offering financial services to individuals  
 40 in Indiana; or

41 (ii) the person exempt from licensing ceases to employ a  
 42 licensed mortgage loan originator, or ceases to sponsor under





- 1 an exclusive written agreement (as permitted by  
 2 IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator  
 3 as an independent agent, or to offer financial services to  
 4 individuals in Indiana, whichever is later;  
 5 as applicable;
- 6 (e) be payable to the department for the benefit of:  
 7 (i) the state; and  
 8 (ii) individuals who reside in Indiana when they agree to  
 9 receive financial services from the creditor or the person  
 10 exempt from licensing, as applicable;
- 11 (f) be issued by a bonding, surety, or insurance company  
 12 authorized to do business in Indiana and rated at least "A-" by at  
 13 least one (1) nationally recognized investment rating service; and  
 14 (g) have payment conditioned upon:  
 15 (i) the creditor's or any of the creditor's licensed mortgage loan  
 16 originators'; or  
 17 (ii) the exempt person's or any of the exempt person's licensed  
 18 mortgage loan originators';  
 19 noncompliance with or violation of this chapter, 750 IAC 9, or  
 20 other federal or state laws or regulations applicable to mortgage  
 21 lending.
- 22 (3) The director may adopt rules or guidance documents with  
 23 respect to the requirements for surety bonds as necessary to accomplish  
 24 the purposes of this article.
- 25 (4) The penal sum of the surety bond shall be maintained in an  
 26 amount that reflects the dollar amount of mortgage transactions  
 27 originated as determined by the director. If the principal amount of a  
 28 surety bond required under this section is reduced by payment of a  
 29 claim or judgment, the creditor or exempt person for whom the bond  
 30 is issued shall immediately notify the director of the reduction and, not  
 31 later than thirty (30) days after notice by the director, file a new or an  
 32 additional surety bond in an amount set by the director. The amount of  
 33 the new or additional bond set by the director must be at least the  
 34 amount of the bond before payment of the claim or judgment.
- 35 (5) If for any reason a surety terminates a bond issued under this  
 36 section, the creditor or the exempt person shall immediately notify the  
 37 department and file a new surety bond in an amount determined by the  
 38 director.
- 39 (6) Cancellation of a surety bond issued under this section does not  
 40 affect any liability incurred or accrued during the period when the  
 41 surety bond was in effect.
- 42 (7) The director may obtain satisfaction from a surety bond issued



1 under this section if the director incurs expenses, issues a final order,  
2 or recovers a final judgment under this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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



- 1 (iii) initiate any civil action based on information obtained  
 2 from the NMLSR if the person could not have initiated the  
 3 action based on information otherwise available to the person  
 4 under any other state law.
- 5 (b) Documents, materials, and other forms of information in the  
 6 control or possession of the NMLSR that are confidential under  
 7 IC 28-1-2-30 and that are:
- 8 (i) furnished by the director, the director's designee, or a  
 9 licensee; or
- 10 (ii) otherwise obtained by the NMLSR;
- 11 are confidential and privileged by law and are not subject to  
 12 inspection under IC 5-14-3, subject to subpoena, subject to  
 13 discovery, or admissible in evidence in any civil action. However,  
 14 the director may use the documents, materials, or other  
 15 information available to the director in furtherance of any action  
 16 brought in connection with the director's duties under this article.
- 17 (c) Disclosure of documents, materials, and information:
- 18 (i) to the director; or
- 19 (ii) by the director;
- 20 under this subsection does not result in a waiver of any applicable  
 21 privilege or claim of confidentiality with respect to the  
 22 documents, materials, or information.
- 23 (d) Information provided to the NMLSR is subject to IC 4-1-11.
- 24 (e) This subsection does not limit or impair a person's right to:
- 25 (i) obtain information;
- 26 (ii) use information as evidence in a civil action or proceeding;
- 27 or
- 28 (iii) use information to initiate a civil action or proceeding;
- 29 if the information may be obtained from the director or the  
 30 director's designee under any law.
- 31 (f) Except as otherwise provided in the federal Housing and  
 32 Economic Recovery Act of 2008, Public Law 110-289, Section  
 33 1512, the requirements under any federal law or IC 5-14-3  
 34 regarding the privacy or confidentiality of any information or  
 35 material provided to the NMLSR, and any privilege arising under  
 36 federal or state law, including the rules of any federal or state  
 37 court, with respect to the information or material, continue to  
 38 apply to the information or material after the information or  
 39 material has been disclosed to the NMLSR. The information and  
 40 material may be shared with all state and federal regulatory  
 41 officials with mortgage industry oversight authority without the  
 42 loss of privilege or the loss of confidentiality protections provided



- 1 by federal law or IC 5-14-3.
- 2 (g) For purposes of this section, the director may enter agreements
- 3 or sharing arrangements with other governmental agencies, the
- 4 Conference of State Bank Supervisors, the American Association
- 5 of Residential Mortgage Regulators, or other associations
- 6 representing governmental agencies as established by rule or
- 7 order of the director.
- 8 (h) Information or material that is subject to a privilege or
- 9 confidentiality under subdivision (f) is not subject to:
- 10 (i) disclosure under any federal or state law governing the
- 11 disclosure to the public of information held by an officer or an
- 12 agency of the federal government or the respective state; or
- 13 (ii) subpoena, discovery, or admission into evidence, in any
- 14 private civil action or administrative process, unless with
- 15 respect to any privilege held by the NMLSR with respect to
- 16 the information or material, the person to whom the
- 17 information or material pertains waives, in whole or in part, in
- 18 the discretion of the person, that privilege.
- 19 (i) Any provision of IC 5-14-3 that concerns the disclosure of:
- 20 (i) confidential supervisory information; or
- 21 (ii) any information or material described in subdivision (f);
- 22 and that is inconsistent with subdivision (f) is superseded by this
- 23 section.
- 24 (j) This section does not apply with respect to information or
- 25 material that concerns the employment history of, and publicly
- 26 adjudicated disciplinary and enforcement actions against, a
- 27 person licensed in accordance with section 502.1 of this chapter
- 28 and described in section 503(2) of this chapter and that is
- 29 included in the NMLSR for access by the public.
- 30 (k) The director may require a licensee required to submit
- 31 information to the NMLSR to pay a processing fee considered
- 32 reasonable by the director. In determining whether an NMLSR
- 33 processing fee is reasonable, the director shall:
- 34 (i) require review of; and
- 35 (ii) make available;
- 36 the audited financial statements of the NMLSR.
- 37 (7) Notwithstanding any other provision of law, any:
- 38 (a) application, renewal, or other form or document that:
- 39 (i) relates to mortgage licenses issued by the department; and
- 40 (ii) is made or produced in an electronic format;
- 41 (b) document filed as an electronic record in a multistate
- 42 automated repository established and operated for the licensing or



1 registration of mortgage lenders, brokers, or loan originators; or  
 2 (c) electronic record filed through the NMLSR;  
 3 is considered a valid original document when reproduced in paper form  
 4 by the department.

5 SECTION 22. IC 24-4.5-4-108, AS AMENDED BY P.L.90-2008,  
 6 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 108. Refund or Credit Required; Amount — (1)  
 8 Upon prepayment in full of a consumer credit sale or consumer loan by  
 9 the proceeds of consumer credit insurance, the debtor or the debtor's  
 10 estate is entitled to a refund of:

11 (a) any portion of a separate charge for insurance which by reason  
 12 of prepayment is retained by the creditor or returned to the  
 13 creditor by the insurer unless the charge was computed from time  
 14 to time on the basis of the balances of the debtor's account; and

15 (b) any portion of an additional charge that is:

16 (i) assessed in accordance with IC 24-4.5-2-202(1)(c),  
 17 **IC 24-4.5-2-202(1)(h), or IC 24-4.5-3-202(1)(e), or**  
 18 **IC 24-4.5-3-202(1)(k); and**

19 (ii) subject to rebate upon prepayment.

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

25 (a) the insurance is terminated by performance of the insurer's  
 26 obligation;

27 (b) the creditor pays or accounts for premiums to the insurer in  
 28 amounts and at times determined by the agreement between them;  
 29 or

30 (c) the creditor receives directly or indirectly under any policy of  
 31 insurance a gain or advantage not prohibited by law.

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

36 (a) the insurance is not provided or is provided for a term shorter  
 37 than the term for which the charge to the debtor for insurance was  
 38 computed; or

39 (b) the insurance or the protection provided in exchange for the  
 40 additional charge described in subsection (1)(b) terminates prior  
 41 to the end of the scheduled term of the coverage because of  
 42 prepayment in full or otherwise.



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

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

14 (6) If a refund or credit required by subsection (1) or (3) is not made  
 15 to the debtor within sixty (60) days after the date the debt is terminated,  
 16 due to prepayment in full or otherwise, the creditor shall pay to the  
 17 debtor for each day after the sixty (60) day period has expired an  
 18 amount equal to the daily interest at the contracted annual percentage  
 19 rate on the amount of the refund required by subsection (1) due at the  
 20 time of prepayment or termination. The director may impose an  
 21 additional civil penalty of not greater than one thousand dollars  
 22 (\$1,000) per occurrence if a creditor engages in a pattern or practice of  
 23 failing to comply with this subsection.

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

29 (1) has committed a violation of a statute, a rule, a final cease and  
 30 desist order, a condition imposed in writing by the director in  
 31 connection with the grant of an application or other request by the  
 32 creditor, or a written agreement between the creditor and the  
 33 director or the department;

34 (2) has committed fraudulent or unconscionable conduct; or

35 (3) has been convicted of a felony under the laws of Indiana or  
 36 any other jurisdiction;

37 the director may issue and serve upon the person a notice of charges  
 38 and of the director's intent to issue an order removing the person from  
 39 the person's office or employment, an order prohibiting participation by  
 40 the person in the conduct of the affairs of any creditor, or an order both  
 41 removing the person and prohibiting the person's participation.

42 (b) A violation, practice, or breach described in subsection (a) is



1 subject to the authority of the director under ~~subsection~~ **subsections (a)**  
 2 **and (c)** if the director finds any of the following:

3 (1) The interests of the creditor's customers could be seriously  
 4 prejudiced by reason of the violation, practice, or breach.

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

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

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

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

21 (e) A creditor shall give the department written notice of the  
 22 resignation, discharge, or termination of an employee, independent  
 23 contractor, or agent against whom allegations were made that accused  
 24 the employee, independent contractor, or agent of:

25 (1) violating this article or other laws, regulations, rules, or  
 26 industry standards of conduct applicable to consumer credit  
 27 transactions; or

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

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

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

37 (1) be in writing;

38 (2) contain a statement of:

39 (A) the facts constituting the alleged violation, practice, or  
 40 breach;

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



- 1 (C) the director's intention to issue an order under section  
2 122(a) of this chapter;  
3 (3) be delivered to the board of directors of the creditor;  
4 (4) be delivered to the officer, director, or **employee manager** to  
5 which the notice applies;  
6 (5) specify the procedures that must be followed to initiate a  
7 hearing to contest the alleged violation, practice, or breach; and  
8 (6) if the director suspends or prohibits the officer, director, or  
9 **employee manager** from participation in the affairs of the  
10 creditor as described under subsection (e), a statement of the  
11 suspension or prohibition.
- 12 (b) If a hearing is requested not later than ten (10) days after service  
13 of the notice described under subsection (a), the department shall hold  
14 a hearing concerning the alleged violation, practice, or breach. The  
15 hearing shall be held not later than forty-five (45) days after receipt of  
16 the request. The department, based on the evidence presented at the  
17 hearing, shall enter a final order in accordance with section 122 of this  
18 chapter.
- 19 (c) If no hearing is requested within the period of time specified in  
20 subsection (b), the director may proceed to issue a final order under  
21 section 122 of this chapter on the basis of the facts set forth in the  
22 notice described under subsection (a).
- 23 (d) An officer, a director, or **employee a manager** of a creditor who  
24 is removed from a position under a removal order under section 122 of  
25 this chapter that has become final may not, without the approval of the  
26 director, participate in the conduct of the affairs of a licensee described  
27 under IC 24-4.5-3.
- 28 (e) The director may, for the protection of the creditor or the  
29 interests of the creditor's customers, suspend from office or prohibit  
30 from participation in the affairs of the creditor an officer, a director, or  
31 **an employee a manager** of a creditor who is the subject of a written  
32 notice served by the director under section 119(a) of this chapter. A  
33 suspension or prohibition under this subsection becomes effective upon  
34 service of the notice under section 119(a) of this chapter. Unless stayed  
35 by a court in a proceeding authorized by subsection (f), the suspension  
36 or prohibition remains in effect pending completion of the proceedings  
37 related to the notice served under section 119(a) of this chapter and  
38 until the effective date of an order entered by the department under  
39 subsection (b) or the director under subsection (c). If the director  
40 suspends or prohibits participation of an officer, a director, or **an**  
41 **employee a manager** under this subsection, copies of the notice shall  
42 also be served upon the creditor or affiliate of which the person is an





1 officer, a director, or ~~an employee.~~ **a manager.**

2 (f) Not more than fifteen (15) days after an officer, a director, or ~~an~~  
3 ~~employee~~ **a manager** has been suspended from office or prohibited  
4 from participation in the conduct of the affairs of the creditor or  
5 affiliate under subsection (e), the officer, director, or ~~employee~~  
6 **manager** may apply to a court having jurisdiction for a stay of the  
7 suspension or prohibition pending completion of the proceedings  
8 related to the notice served under section 119(a) of this chapter. The  
9 court may stay a suspension of prohibition of the officer, director, or  
10 ~~employee.~~ **manager.**

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

13 SECTION 25. IC 24-4.5-6-121, AS ADDED BY P.L.35-2010,  
14 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2019]: Sec. 121. If the director enters into a consent to a final  
16 order with a director, an officer, or ~~an employee,~~ **a manager**, the  
17 director is not required to issue and serve a notice of charges upon the  
18 director, officer, or ~~employee~~ **manager** under section 119 of this  
19 chapter. A consent agreement may be negotiated and entered into  
20 before or after the issuance of a notice of charges. The director shall  
21 provide a copy of the consent order to the board of directors of the  
22 creditor.

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

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

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

- 40 (1) The removal of the officer, director, or ~~employee~~ **manager**  
41 from the person's office, position, or employment.  
42 (2) A prohibition against any participation by the officer, director,



1 or **employee manager** in the conduct of the affairs of any creditor.

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

6 (A) is described in section 119 of this chapter; and

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

8 (d) A final order shall be issued in writing not later than ninety (90)  
9 days after conclusion of a hearing held under section 120(b) of this  
10 chapter, unless this period is waived or extended with the written  
11 consent of all parties or for good cause shown.

12 (e) If the officer, director, or **employee manager** does not appear  
13 individually or by an authorized representative at a hearing held under  
14 section 120(b) of this chapter, the officer, director, or **employee**  
15 **manager** is considered to have consented to the issuance of a final  
16 order.

17 (f) The director may keep a final order confidential if the director  
18 determines that the immediate release of the order would endanger the  
19 stability of the creditor. However, after two (2) years following the date  
20 that an order is issued, a final order is no longer confidential.

21 (g) The remedies provided in this chapter are in addition to other  
22 remedies contained in this article.

23 SECTION 27. IC 24-4.5-6-125, AS ADDED BY P.L.35-2010,  
24 SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2019]: Sec. 125. The director may enforce any of the  
26 following by applying for appropriate relief to a court having  
27 jurisdiction:

28 (1) An order issued under section 121 or 122 of this chapter.

29 (2) A written agreement entered into by the director or the  
30 department and a director, an officer, or **an employee a manager**  
31 of a creditor.

32 (3) Any condition imposed in writing by the director or the  
33 department on a director, an officer, or **an employee a manager**  
34 of a creditor.

35 SECTION 28. IC 24-7-1-5, AS AMENDED BY P.L.217-2007,  
36 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2019]: Sec. 5. (a) Rental purchase agreements involving:

38 (1) motor vehicles (as defined in IC 9-13-2-105(a)), **or including:**

39 (A) **component parts (as defined in IC 9-13-2-34);**

40 (B) **major component parts (as defined in IC 9-13-2-95);**  
41 **and**

42 (C) **any other parts (as defined in IC 9-13-2-122) other**



1                   **than:**  
 2                    (i) wheels;  
 3                    (ii) rims; and  
 4                    (iii) tires;  
 5                    **necessary to operate a motor vehicle;**  
 6                    (2) other titled property; or  
 7                    (3) live domestic animals (as defined in IC 34-30-30-1);  
 8 are prohibited under this article.  
 9                    **(b) If the director determines that a transaction described in**  
 10 **IC 24-7-2-9(a) involves the application of subterfuge for the**  
 11 **purpose of avoiding the application of the Uniform Consumer**  
 12 **Credit Code (IC 24-4.5), the director may treat the transaction as**  
 13 **a disguised consumer credit sale that is subject to IC 24-4.5. A**  
 14 **determination by the director under this subsection:**  
 15                    (1) must be in writing;  
 16                    (2) shall be delivered to all parties in the transaction; and  
 17                    (3) is subject to IC 4-21.5-3.  
 18                    SECTION 29. IC 24-7-2-3.5 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2019]: **Sec. 3.5. "Initial rental payment" means any up-front**  
 21 **payment:**  
 22                    (1) that is made by a lessee to a lessor, or to an agent acting on  
 23                    behalf of a lessor, for property under a rental purchase  
 24                    agreement;  
 25                    (2) that includes a rental payment that permits the lessee's use  
 26                    of the property for the initial rental period;  
 27                    (3) that may be in an amount that is larger than a regular  
 28                    rental payment due under the rental purchase agreement; and  
 29                    (4) that may include one (1) or more of the following:  
 30                        (A) An amount intended to be paid toward the rental or  
 31                        ownership of the property that is the subject of the rental  
 32                        purchase agreement.  
 33                        (B) Additional charges permitted under IC 24-7-5,  
 34                        including any of the following:  
 35                            (i) A nonrefundable processing fee or a delivery charge.  
 36                            (ii) Sales and use taxes.  
 37                            (iii) Official fees.  
 38                            (iv) An optional liability waiver fee for the initial rental  
 39                            period.  
 40                            (v) A security deposit.  
 41                    SECTION 30. IC 24-7-2-8.5 IS ADDED TO THE INDIANA CODE  
 42 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY



1 1, 2019]: **Sec. 8.5. "Regular rental payment" means a periodic**  
 2 **payment in a fixed amount that permits a lessee's use of property**  
 3 **under a rental purchase agreement for a specific time after the**  
 4 **initial rental period.**

5 SECTION 31. IC 24-7-3-6, AS AMENDED BY P.L.69-2018,  
 6 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 6. ~~Before any regular rental payment is due under~~  
 8 ~~the rental purchase agreement,~~ The lessor shall obtain the signature of  
 9 the lessee on the writing containing the terms of the rental purchase  
 10 agreement and shall furnish the lessee with a copy of the written and  
 11 signed rental purchase agreement **at the time of consummation of the**  
 12 **agreement.** If there is more than one (1) lessee in a rental purchase  
 13 agreement, delivery of a copy of the rental purchase agreement to one  
 14 (1) of the lessees is sufficient to comply with this section.

15 SECTION 32. IC 24-7-4-1, AS AMENDED BY P.L.69-2018,  
 16 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 1. At any time after ~~the initial a rental payment~~  
 18 ~~purchase agreement is made,~~ **consummated,** the lessee may acquire  
 19 ownership of the property under the terms specified in the rental  
 20 purchase agreement.

21 SECTION 33. IC 24-7-4-1.5 IS REPEALED [EFFECTIVE JULY  
 22 1, 2019]. Sec. 1.5: (a) ~~Any up-front payment made by the lessee at the~~  
 23 ~~time a rental purchase agreement is entered into must be treated by the~~  
 24 ~~lessor as an initial rental payment:~~

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

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

27 (2) ~~may be in a sum larger than a regular rental payment due~~  
 28 ~~under the rental purchase agreement:~~

29 SECTION 34. IC 24-7-5-5, AS AMENDED BY P.L.69-2018,  
 30 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2019]: Sec. 5. (a) The parties to a rental purchase agreement  
 32 may contract for late charges or delinquency fees as follows:

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

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

37 (B) the return of the property is required under the rental  
 38 purchase agreement.

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



- 1 (A) the renewal date for the agreement; or  
 2 (B) the return of the property is required under the agreement.
- 3 (b) A late charge on a rental purchase agreement may be ~~collected~~  
 4 **assessed** only once on any accrued regular rental payment, no matter  
 5 how long it remains unpaid.
- 6 (c) A late charge may be collected at any time after it accrues.
- 7 (d) A late charge may not be assessed against a regular rental  
 8 payment that is timely made, even though an earlier late charge has not  
 9 been paid in full.
- 10 (e) The amount that may be assessed under subsection (a)(2) is as  
 11 follows:
- 12 (1) Three dollars (\$3) for any payment not greater than twenty  
 13 dollars (\$20).  
 14 (2) Five dollars (\$5) for any payment greater than twenty dollars  
 15 (\$20).
- 16 SECTION 35. IC 24-7-6-2, AS AMENDED BY P.L.69-2018,  
 17 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2019]: Sec. 2. (a) As a condition precedent to reinstatement  
 19 of the rental purchase agreement, a lessor may charge:
- 20 (1) the outstanding balance of any accrued regular rental  
 21 payments, returned payment ~~charges~~, **fees**, and delinquency  
 22 charges;  
 23 (2) a reinstatement fee not exceeding the amount allowed under  
 24 IC 24-7-5-6; and  
 25 (3) delivery charges not exceeding the amounts allowed under  
 26 IC 24-7-5-3 if redelivery of the item is necessary.
- 27 (b) A reinstatement fee may not be charged under subsection (a)(2)  
 28 unless the property has been returned to the lessor and is in the lessor's  
 29 possession.
- 30 SECTION 36. IC 24-12-1-0.5 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2019]: **Sec. 0.5. (a) As used in this article and**  
 33 **subject to IC 24-12-6-2, "civil proceeding advance payment**  
 34 **transaction", or "CPAP transaction", means a nonrecourse**  
 35 **transaction in which a CPAP provider provides a funded amount**  
 36 **to a consumer claimant to use for any purpose other than**  
 37 **prosecuting the consumer claimant's civil proceeding, if the**  
 38 **repayment of the funded amount is:**
- 39 (1) **required only if the consumer claimant prevails in the civil**  
 40 **proceeding; and**  
 41 (2) **sourced from the proceeds of the civil proceeding, whether**  
 42 **the proceeds result from a judgment, a settlement, or some**



1           **other resolution.**

2           **(b) The term includes a transaction:**

3           **(1) that is termed or described as:**

4           **(A) a purchase; or**

5           **(B) an assignment of an interest in a consumer claimant's**  
 6           **civil proceeding, or in the proceeds of a consumer**  
 7           **claimant's civil proceeding;**

8           **by the CPAP provider; or**

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

11           **(A) the CPAP provider to purchase from the consumer**  
 12           **claimant; or**

13           **(B) the consumer claimant to assign to the CPAP provider;**  
 14           **a contingent right to receive a share of the potential proceeds**  
 15           **of the consumer claimant's civil proceeding, whether the**  
 16           **proceeds result from a judgment, a settlement, or some other**  
 17           **resolution.**

18           SECTION 37. IC 24-12-1-1, AS AMENDED BY P.L.85-2017,  
 19           SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20           JULY 1, 2019]: Sec. 1. The following definitions apply throughout this  
 21           article:

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

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

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

38           **(A) a civil action;**

39           **(B) a mediation, an arbitration, or any other alternative**  
 40           **dispute resolution proceeding; or**

41           **(C) an administrative proceeding before:**

42           **(i) an agency or instrumentality of the state; or**



1 (ii) a political subdivision, or an agency or  
 2 instrumentality of a political subdivision, of the state;  
 3 that is filed in, or is under the jurisdiction of, a court with  
 4 jurisdiction in Indiana, a tribunal in Indiana, or an agency or  
 5 instrumentality described in clause (C) in Indiana. The term  
 6 includes all proceedings arising out of or relating to the  
 7 proceeding, including any proceedings on appeal or remand,  
 8 and any enforcement, ancillary, or parallel proceedings.

9 (4) "Civil proceeding advance payment contract", or "CPAP  
 10 contract", has the meaning set forth in ~~IC 24-4.5-3-110.5~~: means  
 11 a contract for a CPAP transaction that a CPAP provider  
 12 enters into, or offers to enter into, with a consumer claimant.

13 (5) "Civil proceeding advance payment provider", or "CPAP  
 14 provider", has the meaning set forth in ~~IC 24-4.5-3-110.5~~: means  
 15 a person that enters into, or offers to enter into, a CPAP  
 16 transaction with a consumer claimant in connection with a  
 17 civil proceeding.

18 (6) "Civil proceeding advance payment transaction", or "CPAP  
 19 transaction", has the meaning set forth in ~~IC 24-4.5-3-110~~: **section**  
 20 **0.5 of this chapter**.

21 (7) "Consumer claimant", with respect to a CPAP transaction, has  
 22 the meaning set forth in ~~IC 24-4.5-3-110.5~~: means an individual:

23 (A) who is or may become a plaintiff, a claimant, or a  
 24 demandant in a civil proceeding; and

25 (B) who:

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

27 (ii) enters into a CPAP transaction with a CPAP  
 28 provider.

29 (8) "Department" refers to the department of financial  
 30 institutions established by IC 28-11-1-1.

31 (9) "Director" means the director of the department of  
 32 financial institutions or the director's designee.

33 ~~(8)~~ (10) "Funded amount", with respect to a CPAP transaction,  
 34 has the meaning set forth in ~~IC 24-4.5-3-110.5~~: means the  
 35 amount of money:

36 (A) that is provided to the consumer claimant by the CPAP  
 37 provider;

38 (B) the repayment of which is:

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

41 (ii) sourced from the proceeds of the civil proceeding,  
 42 whether the proceeds result from a judgment, a



- 1 settlement, or some other resolution; and  
 2 **(C) that under IC 24-12-4-1(1)(A) must be:**  
 3 **(i) set forth; and**  
 4 **(ii) designated by the term "funded amount";**  
 5 **by the CPAP provider in the CPAP contract.**  
 6 ~~(9)~~ **(11) "Funding date"** means the date on which the funded  
 7 amount is transferred to the consumer claimant by the CPAP  
 8 provider, by:  
 9 (A) personal delivery, wire, Automated Clearing House  
 10 (ACH), or other electronic means; or  
 11 (B) insured, certified, or registered United States mail.  
 12 **(12) "Nationwide Multistate Licensing System and Registry"**  
 13 **(or "Nationwide Mortgage Licensing System and Registry" or**  
 14 **"NMLSR") means a multistate licensing system owned and**  
 15 **operated by the State Regulatory Registry, LLC, or by any**  
 16 **successor or affiliated entity, for the licensing and registration**  
 17 **of creditors, mortgage loan originators, and other persons in**  
 18 **the mortgage or financial services industries. The term**  
 19 **includes any other name or acronym that may be assigned to**  
 20 **the system by the State Regulatory Registry, LLC, or by any**  
 21 **successor or affiliated entity.**  
 22 **(13) "Regularly engaged", with respect to a CPAP provider,**  
 23 **refers to a CPAP provider that:**  
 24 **(A) entered into CPAP transactions with consumer**  
 25 **claimants more than fifteen (15) times in the preceding**  
 26 **calendar year; or**  
 27 **(B) enters into or will enter into CPAP transactions with**  
 28 **consumer claimants more than fifteen (15) times in the**  
 29 **current calendar year, if the CPAP provider did not meet**  
 30 **the numerical standard described in clause (A) in the**  
 31 **preceding calendar year.**  
 32 ~~(10)~~ **(14) "Resolution date"** means the date the funded amount,  
 33 plus the agreed upon charges, is delivered to the CPAP provider.  
 34 **(15) "Unique identifier" means a number or other identifier**  
 35 **assigned by protocols established by the NMLSR.**  
 36 SECTION 38. IC 24-12-2-1, AS ADDED BY P.L.153-2016,  
 37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2019]: Sec. 1. Every CPAP transaction must meet the  
 39 following requirements:  
 40 (1) The CPAP contract must be completely filled in when  
 41 presented to the consumer claimant for signature.  
 42 (2) The CPAP contract must contain, in bold and boxed type, font





1 **contained within a box**, a right of rescission, allowing the  
 2 consumer claimant to cancel the contract without penalty or  
 3 further obligation if, not later than five (5) business days after the  
 4 funding date, the consumer claimant either:

5 (A) returns to the CPAP provider the full amount of the  
 6 disbursed funds by delivering the provider's uncashed check  
 7 to the provider's office in person; or

8 (B) mails, by insured, certified, or registered United States  
 9 mail, to the address specified in the contract, a notice of  
 10 cancellation and includes in the mailing a return of the full  
 11 amount of disbursed funds in the form of the provider's  
 12 uncashed check or a registered or certified check or money  
 13 order.

14 (3) The CPAP contract must contain the initials of the consumer  
 15 claimant on each page.

16 (4) If the consumer claimant is represented by an attorney in the  
 17 civil proceeding on which a CPAP transaction is based, the CPAP  
 18 contract must contain a written acknowledgment by the attorney  
 19 that attests to the following:

20 (A) That to the best of the attorney's knowledge, all costs and  
 21 charges relating to the CPAP transaction have been disclosed  
 22 to the consumer claimant.

23 (B) That the attorney is being paid by the consumer claimant  
 24 on a contingency basis under a written fee agreement.

25 (C) That all proceeds of the civil proceeding will be disbursed  
 26 through a trust account of the attorney, or through a settlement  
 27 fund established to receive the proceeds of the civil  
 28 proceeding on behalf of the consumer claimant.

29 (D) That the attorney is following the instructions of the  
 30 consumer claimant with respect to the CPAP transaction.

31 (E) That the attorney has not received a referral fee or other  
 32 consideration from the CPAP provider, and agrees not to  
 33 receive a referral fee or other consideration from the CPAP  
 34 provider at any time, in connection with the CPAP transaction.

35 If the attorney retained by the consumer claimant in the consumer  
 36 claimant's civil proceeding does not complete the  
 37 acknowledgment required by this subdivision, the CPAP contract,  
 38 and the CPAP transaction to which it pertains, are void. However,  
 39 the CPAP contract, and the CPAP transaction to which it pertains,  
 40 remain valid and enforceable if the consumer claimant or the  
 41 attorney terminates the representation.

42 SECTION 39. IC 24-12-4-1, AS ADDED BY P.L.153-2016,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2019]: Sec. 1. Each CPAP contract must contain the  
3 disclosures specified in this section, which are material terms of the  
4 contract. Unless otherwise specified, the disclosures must be in at least  
5 a 12 point bold font and be placed clearly and conspicuously within the  
6 contract. The following disclosures are required:

7 (1) On the front page, under appropriate headings, language  
8 specifying:

9 (A) the funded amount, **designated by the term "funded**  
10 **amount"**, to be paid to the consumer claimant by the CPAP  
11 provider;

12 (B) an itemization of one (1) time charges;

13 (C) the total amount to be assigned by the consumer claimant  
14 to the CPAP provider, including the funded amount and all  
15 charges; and

16 (D) a payment schedule including the funded amount and all  
17 charges, listing all dates and the amount due at the end of each  
18 ~~one hundred eighty (180) day~~ **six (6) month** period, from the  
19 funding date until the date on which the maximum amount due  
20 to the CPAP provider by the consumer claimant occurs.

21 (2) A notice within the body of the contract stating the following:  
22 "Consumer Claimant's Right to Cancellation: You may cancel this  
23 contract without penalty or further obligation within five (5)  
24 business days after the funding date if you either:

25 (A) return to (**insert name of** the CPAP provider) the full  
26 amount of the disbursed funds by delivering the provider's  
27 uncashed check to the provider's office in person; or

28 (B) mail, by insured, certified, or registered United States  
29 mail, to (**insert name of** the CPAP provider) at the address  
30 specified in the contract, a notice of cancellation and include  
31 in the mailing a return of the full amount of disbursed funds in  
32 the form of the provider's uncashed check or a registered or  
33 certified check or money order."

34 (3) A notice informing the consumer claimant that the CPAP  
35 provider has no role in deciding whether, when, and how much  
36 the civil proceeding is settled for. However, the consumer  
37 claimant and consumer claimant's attorney must notify the CPAP  
38 provider of the outcome of the civil proceeding by settlement or  
39 adjudication before the resolution date. The CPAP provider may  
40 seek updated information about the status of the civil proceeding  
41 but in no event may the provider interfere with the independent  
42 professional judgment of the attorney in the handling of the civil



1 proceeding or any settlement.

2 (4) Within the body of the contract, in all capital letters in at least  
 3 a 12 point bold font contained within a box the following: "THE  
 4 FUNDED AMOUNT AND AGREED UPON CHARGES SHALL  
 5 BE PAID ONLY FROM THE PROCEEDS OF YOUR CIVIL  
 6 PROCEEDING, AND SHALL BE PAID ONLY TO THE  
 7 EXTENT THAT THERE ARE AVAILABLE PROCEEDS  
 8 FROM YOUR CIVIL PROCEEDING. YOU WILL NOT OWE  
 9 (INSERT NAME OF THE CIVIL PROCEEDING ADVANCE  
 10 PAYMENT PROVIDER) ANYTHING IF THERE ARE NO  
 11 PROCEEDS FROM YOUR CIVIL PROCEEDING, UNLESS  
 12 YOU HAVE VIOLATED ANY MATERIAL TERM OF THIS  
 13 CONTRACT OR YOU HAVE COMMITTED FRAUD  
 14 AGAINST (INSERT NAME OF THE CIVIL PROCEEDING  
 15 ADVANCE PAYMENT PROVIDER).".

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

27 SECTION 40. IC 24-12-4.5 IS ADDED TO THE INDIANA CODE  
 28 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]:

30 **Chapter 4.5. Charges**

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

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

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

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

38 **(B) earned at consummation and each year after**  
 39 **consummation on the anniversary of the funding date, in**  
 40 **the case of a CPAP transaction offered or entered into**  
 41 **after June 30, 2019.**

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



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



1 the business of making CPAP transactions in Indiana with consumer  
 2 **claimants** unless the person obtains, and maintains on an annual basis,  
 3 a CPAP license issued by the department under ~~IC 24-4.5-3~~. **this**  
 4 **chapter.**

5 SECTION 43. IC 24-12-9-2 IS REPEALED [EFFECTIVE JULY 1,  
 6 2019]. ~~Sec. 2. Every person shall, at the time of filing for licensure, file~~  
 7 ~~with the department of financial institutions, if required by the~~  
 8 ~~department, a bond satisfactory to the department in an amount not to~~  
 9 ~~exceed fifty thousand dollars (\$50,000). Instead of the bond, at the~~  
 10 ~~option of the person, the person may post an irrevocable letter of credit.~~  
 11 ~~The terms of the bond must run concurrently with the period during~~  
 12 ~~which the license will be in effect. The bond must provide that the~~  
 13 ~~person will faithfully follow the law.~~

14 SECTION 44. IC 24-12-9-3, AS ADDED BY P.L.153-2016,  
 15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2019]: Sec. 3. A CPAP transaction entered into before July 1,  
 17 2016, is not subject to this article. ~~or to IC 24-4.5.~~

18 SECTION 45. IC 24-12-9-4 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2019]: Sec. 4. (a) **Subject to subsection (f), the director may**  
 21 **designate the NMLSR to serve as the sole entity responsible for:**

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

24 (2) **issuing unique identifiers for licensees under this chapter;**  
 25 **and**

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

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

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

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

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

42 (f) **The director's authority to designate the NMLSR under**



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



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



1 information to the NMLSR to pay a processing fee considered  
 2 reasonable by the director. In determining whether an  
 3 NMLSR processing fee is reasonable, the director shall:

4 (A) require review of; and

5 (B) make available;

6 the audited financial statements of the NMLSR.

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

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

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

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

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

15 (3) electronic record filed through the NMLSR;

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

18 SECTION 46. IC 24-12-9-5 IS ADDED TO THE INDIANA CODE  
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 20 1, 2019]: Sec. 5. (a) The department shall receive and act on all  
 21 applications for licenses to regularly engage as a CPAP provider  
 22 in CPAP transactions. Applications must be as prescribed by the  
 23 director of the department of financial institutions. If, at any time,  
 24 the information or record contained in:

25 (1) an application; or

26 (2) a renewal application;

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

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

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

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

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

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





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

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

6 (d) Evidence of compliance with this section concerning a  
7 person licensed under this chapter may include:

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

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

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

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

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

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

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

42 (j) Except in a transaction approved under section 12 of this



1 **chapter, a license issued under this section is not assignable or**  
 2 **transferable.**

3 SECTION 47. IC 24-12-9-6 IS ADDED TO THE INDIANA CODE  
 4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2019]: **Sec. 6. (a) When the director requests a national criminal**  
 6 **history background check under section 5(d)(1) of this chapter for**  
 7 **an individual described in section 5(b) of this chapter, the director**  
 8 **shall require the individual to submit fingerprints to the**  
 9 **department, state police department, or NMLSR, as directed, at**  
 10 **the time evidence of compliance is requested under section 5(c) of**  
 11 **this chapter. The individual to whom the request is made shall pay**  
 12 **any fees or costs associated with processing and evaluating the**  
 13 **fingerprints and the national criminal history background check.**  
 14 **The national criminal history background check may be used by**  
 15 **the director to determine the individual's compliance with this**  
 16 **section. The director or the department may not release the results**  
 17 **of the national criminal history background check to any private**  
 18 **entity.**

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

25 SECTION 48. IC 24-12-9-7 IS ADDED TO THE INDIANA CODE  
 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 27 1, 2019]: **Sec. 7. (a) If the director requests a credit report for an**  
 28 **individual described in section 5(b) of this chapter, the individual**  
 29 **to whom the request is made shall pay any fees or costs associated**  
 30 **with procuring the report.**

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

37 **(c) The director may consider one (1) or more of the following**  
 38 **when determining if an individual has demonstrated financial**  
 39 **responsibility:**

- 40 **(1) Bankruptcies filed within the last ten (10) years.**  
 41 **(2) Current outstanding judgments, except judgments solely**  
 42 **as a result of medical expenses.**



1           **(3) Current outstanding tax liens or other government liens or**  
 2           **filings.**

3           **(4) Foreclosures within the past three (3) years.**

4           **(5) A pattern of serious delinquent accounts within the past**  
 5           **three (3) years.**

6           SECTION 49. IC 24-12-9-8 IS ADDED TO THE INDIANA CODE  
 7           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8           1, 2019]: **Sec. 8. (a) If required by the department, each CPAP**  
 9           **provider licensed by the department under this article must be**  
 10          **covered by a surety bond in accordance with this section in an**  
 11          **amount not to exceed fifty thousand dollars (\$50,000).**

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

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

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

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

18           **(4) remain in effect during the two (2) years after the CPAP**  
 19           **provider ceases offering CPAP transactions to individuals in**  
 20           **Indiana;**

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

22            **(A) the state; and**

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

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

29           **(7) have payment conditioned upon the CPAP provider's**  
 30           **noncompliance with or violation of this chapter or other**  
 31           **federal or state laws or regulations applicable to CPAP**  
 32           **transactions.**

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

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



1       **The amount of the new or additional bond set by the director must**  
 2       **be at least the amount of the bond before payment of the claim or**  
 3       **judgment.**

4       **(e) If for any reason a surety terminates a bond issued under**  
 5       **this section, the CPAP provider shall immediately notify the**  
 6       **department and file a new surety bond in an amount determined**  
 7       **by the director.**

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

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

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

17       SECTION 50. IC 24-12-9-9 IS ADDED TO THE INDIANA CODE  
 18       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 19       1, 2019]: **Sec. 9. (a) A license issued under this article must be**  
 20       **renewed not later than December 31 of each calendar year. The**  
 21       **minimum standards for license renewal for a CPAP provider**  
 22       **include the following:**

23               **(1) Payment by the CPAP provider of all required fees for**  
 24               **renewal of the license.**

25               **(2) The filing by the CPAP provider of all reports and**  
 26               **information required by the director.**

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

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

30               **(2) pay any license renewal fee described under section 5(h)(3)**  
 31               **of this chapter;**

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

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

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

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

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

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

42               **(1) an original application for licensure filed under this**



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

6 SECTION 51. IC 24-12-9-10 IS ADDED TO THE INDIANA  
 7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2019]: **Sec. 10. (a) The department may issue**  
 9 **to a person licensed under this article an order to show cause why**  
 10 **the license should not be revoked or suspended for a period**  
 11 **determined by the department.**

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

13 (1) include:

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

17 (B) a description of the action contemplated by the  
 18 department; and

19 (C) a statement of the facts or conduct supporting the  
 20 issuance of the order; and

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

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

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

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

27 (c) After the meeting described in subsection (b)(1)(A), the  
 28 department may revoke or suspend the license if the department  
 29 finds that:

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

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

33 (B) any other Indiana or federal laws, rules, or regulations  
 34 applicable to CPAP transactions;

35 (2) the licensee does not meet the licensing qualifications set  
 36 forth in this chapter;

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

39 (4) the licensee knowingly or intentionally made material  
 40 misrepresentations to, or concealed material information  
 41 from, the department; or

42 (5) facts or conditions exist that, had they existed at the time



1 the licensee applied for the license, would have been grounds  
2 for the department to deny the issuance of the license.

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

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

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

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

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

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

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

32 SECTION 52. IC 24-12-9-11 IS ADDED TO THE INDIANA  
33 CODE AS A NEW SECTION TO READ AS FOLLOWS  
34 [EFFECTIVE JULY 1, 2019]: **Sec. 11. (a)** A CPAP provider required  
35 to be licensed under this article shall maintain records in  
36 conformity with United States generally accepted accounting  
37 principles and practices in a manner that will enable the  
38 department to determine whether the licensee is complying with  
39 the provisions of this article. The record keeping system of a  
40 licensee shall be sufficient if the licensee makes the required  
41 information reasonably available. The department shall determine  
42 the sufficiency of the records and whether the licensee has made



1 the required information reasonably available. The department  
2 shall be given free access to the records wherever located. The  
3 records concerning any CPAP transaction shall be retained for two  
4 (2) years after making the final entry relating to the CPAP  
5 transaction. A person licensed or required to be licensed under this  
6 article is subject to IC 28-1-2-30.5 with respect to any records  
7 maintained by the person.

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

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

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

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

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

42 not later than thirty (30) days after the date of the event described



1 in this subsection.

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

8 SECTION 53. IC 24-12-9-12 IS ADDED TO THE INDIANA  
9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
10 [EFFECTIVE JULY 1, 2019]: Sec. 12. (a) As used in this section,  
11 "control" means possession of the power directly or indirectly to:

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

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

29 (c) The period for approval under subsection (b) may be  
30 extended:

- 31 (1) in the discretion of the director for an additional thirty  
32 (30) days; and  
33 (2) not more than two (2) additional times for not more than  
34 forty-five (45) days each time if:  
35 (A) the director determines that the organization,  
36 individual, or individuals who propose to acquire control  
37 have not submitted substantial evidence of the  
38 qualifications described in subsection (d);  
39 (B) the director determines that any material information  
40 submitted is substantially inaccurate; or  
41 (C) the director has been unable to complete the  
42 investigation of the organization, individual, or individuals





1           who propose to acquire control because of any delay  
2           caused by or the inadequate cooperation of the  
3           organization, individual, or individuals.

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

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

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

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

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

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

32          SECTION 54. IC 28-1-2-6.5, AS AMENDED BY P.L.73-2016,  
33          SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34          JULY 1, 2019]: Sec. 6.5. (a) A financial institution (as defined in  
35          IC 28-1-1-3(1)), except for a licensee under IC 24-4.4, IC 24-4.5, or  
36          750 IAC 9, shall comply with ~~all state and federal money laundering~~  
37          ~~statutes and regulations, including~~ the following:

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

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

40          (3) Any regulations, policies, or reporting requirements  
41          established by the Financial Crimes Enforcement Network of the  
42          United States Department of the Treasury.



1           **(4) Subchapter II of Chapter 53 of Title 31 of the United**  
 2           **States Code, including 31 U.S.C. 5318(I), and 31 CFR Chapter**  
 3           **X, including 31 CFR 1020.220.**

4           ~~(4)~~ **(5)** Any other state or federal money laundering statutes or  
 5           regulations that apply to a financial institution (as defined in  
 6           IC 28-1-1-3(1)) other than a licensee under IC 24-4.4, IC 24-4.5,  
 7           or 750 IAC 9.

8           (b) The department shall do the following:

9           (1) To the extent authorized or required by state law, investigate  
 10           potential violations of, and enforce compliance with, state money  
 11           laundering statutes or regulations.

12           (2) Investigate potential violations of federal money laundering  
 13           statutes or regulations and, to the extent authorized or required by  
 14           federal law:

15               (A) enforce compliance with the federal statutes or  
 16               regulations; or

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

19           SECTION 55. IC 28-1-3.1-2 IS AMENDED TO READ AS  
 20           FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) The department  
 21           may take possession of the business and property of any financial  
 22           institution except a ~~consumer finance institution~~ **creditor** licensed to  
 23           make supervised or regulated loans under IC 24-4.5, whenever it  
 24           appears to the department that the financial institution:

25           (1) is insolvent or in imminent danger of insolvency;

26           (2) is in an unsafe or unsound condition;

27           (3) has refused to pay its deposits or obligations in accordance  
 28           with the terms under which those deposits or obligations were  
 29           incurred;

30           (4) has refused to submit its records and affairs for inspection or  
 31           examination by the department or federal authorities;

32           (5) has violated any court order, statute, rule, or regulation of the  
 33           department or its articles of incorporation and that continued  
 34           control of its own affairs threatens injury to the public, the  
 35           financial community, its depositors, or other creditors;

36           (6) requests through its board of directors that the department take  
 37           possession for the benefit of depositors, other creditors,  
 38           shareholders, or other persons;

39           (7) has an impairment of its capital (the capital of a bank or trust  
 40           company shall, for the purpose of this subdivision, be considered  
 41           to be unimpaired so long as the sound value of its assets over and  
 42           above its liabilities, exclusive of liabilities for capital notes,



- 1 debentures, and capital stock, as determined by the department,  
 2 equals or exceeds the minimum capital or capital stock required  
 3 by the department for a bank or trust company);  
 4 (8) has neglected or refused, for a period of thirty (30) days, to  
 5 comply with the terms of a duly issued order of the department,  
 6 essential to preserve the solvency of the financial institution;  
 7 (9) has failed to pay the fees charged by the department under  
 8 IC 28-11-3-5 after due notice of the amount of the fee has been  
 9 given;  
 10 (10) has breached a fiduciary duty under IC 30-4-3-6; or  
 11 (11) has violated IC 30-4-3-7 in a way that has caused or may  
 12 cause harm to fiduciary accounts.
- 13 (b) When the department makes a determination to take possession  
 14 of the business and property of a financial institution under subsection  
 15 (a), the department shall:
- 16 (1) make a finding to that effect and enter that finding on the  
 17 records of the proceedings of the department; and  
 18 (2) cause a certified copy of the finding to be served on the  
 19 president or other executive officer actively in charge of the  
 20 financial institution and demand possession of the business,  
 21 property, and records of the financial institution from the officer.  
 22 The financial institution shall immediately surrender the  
 23 possession to the department.
- 24 (c) The department or its receiver is not required to become the  
 25 owner of any property to fulfill the liquidation requirements of this  
 26 chapter.
- 27 SECTION 56. IC 28-1-29-5.5, AS AMENDED BY P.L.73-2016,  
 28 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 5.5. (a) As used in this section, "Nationwide  
 30 Multistate Licensing System and Registry" (or "Nationwide Mortgage  
 31 Licensing System and Registry" or "NMLSR") means a multistate  
 32 licensing system owned and operated by the State Regulatory Registry,  
 33 LLC, or by any successor or affiliated entity, for the licensing and  
 34 registration of creditors, mortgage loan originators, and other mortgage  
 35 or financial services entities and their employees and agents. The term  
 36 includes any other name or acronym that may be assigned to the system  
 37 by the State Regulatory Registry, LLC, or by any successor or affiliated  
 38 entity.
- 39 (b) Subject to subsection (g), the director may designate the  
 40 NMLSR to serve as the sole entity responsible for:
- 41 (1) processing applications and renewals for licenses under this  
 42 chapter;



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



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



- 1 and that is inconsistent with subdivision (6) is superseded by this  
 2 section.
- 3 (10) This section does not apply with respect to information or  
 4 material that concerns the employment history of, and publicly  
 5 adjudicated disciplinary and enforcement actions against, a  
 6 person described in section 5(b)(2), 5(b)(3), or 5(b)(4) of this  
 7 chapter and that is included in the NMLSR for access by the  
 8 public.
- 9 (11) The director may require a licensee required to submit  
 10 information to the NMLSR to pay a processing fee considered  
 11 reasonable by the director. In determining whether the NMLSR  
 12 processing fee is reasonable, the director shall:
- 13 (A) require review of; and  
 14 (B) make available;  
 15 the audited financial statements of the NMLSR.
- 16 (12) Notwithstanding any other provision of law, any:
- 17 (A) application, renewal, or other form or document that:  
 18 (i) relates to licenses issued under this chapter; and  
 19 (ii) is made or produced in an electronic format;  
 20 (B) document filed as an electronic record in a multistate  
 21 automated repository established and operated for the  
 22 licensing or registration of financial services entities and their  
 23 employees; or  
 24 (C) electronic record filed through the NMLSR;  
 25 is considered a valid original document when reproduced in paper  
 26 form by the department.
- 27 SECTION 57. IC 28-1-29-6, AS AMENDED BY P.L.216-2013,  
 28 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 6. (a) Each application for a license must be  
 30 accompanied by proof that the applicant has executed a surety bond in  
 31 accordance with this section.
- 32 (b) A surety bond issued under this section must:
- 33 (1) be in a form prescribed by the director;  
 34 (2) be in effect during the term of the license issued under this  
 35 chapter;  
 36 (3) remain in effect during the two (2) years after the licensee  
 37 ceases offering debt management services to individuals in  
 38 Indiana;  
 39 (4) be payable to the department for the benefit of:  
 40 (A) the state; and  
 41 (B) individuals who reside in Indiana when they agree to  
 42 receive debt management services from the licensee;



- 1 (5) be in an amount equal to:  
 2 (A) fifty thousand dollars (\$50,000), in the case of an initial  
 3 surety bond issued under this section; or  
 4 (B) the amount prescribed under subsection (d), beginning  
 5 with the first renewal of a license under this chapter;  
 6 (6) 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 (7) have payment conditioned upon the licensee's or any of the  
 10 licensee's employees' or agents' noncompliance with or violation  
 11 of this chapter or other applicable federal or state laws or  
 12 regulations.
- 13 (c) The director may adopt rules or guidance documents with  
 14 respect to the requirements for a surety bond as necessary to  
 15 accomplish the purposes of this chapter.
- 16 (d) Beginning with the first renewal of a license under this chapter,  
 17 each year that a licensee continues to offer debt management services  
 18 to individuals in Indiana, the licensee shall file a new or an additional  
 19 surety bond in an amount that ensures that the licensee's surety bond  
 20 under this section is equal to the greater of the following:  
 21 (1) fifty thousand dollars (\$50,000); or  
 22 (2) the average of the highest daily balance of funds held in trust  
 23 for Indiana residents for each month during the licensee's most  
 24 recently concluded fiscal year, not to exceed one hundred  
 25 thousand dollars (\$100,000).
- 26 (e) If the principal amount of a surety bond required under this  
 27 section is reduced by payment of a claim or judgment, the licensee for  
 28 whom the bond is issued shall immediately notify the director of the  
 29 reduction and, not later than thirty (30) days after notice by the  
 30 director, file a new or an additional surety bond in an amount set by the  
 31 director. The amount of the new or additional bond set by the director  
 32 must be at least the amount of the bond before payment of the claim or  
 33 judgment.
- 34 (f) If for any reason a surety terminates a bond issued under this  
 35 section, the licensee shall immediately notify the department and file  
 36 a new surety bond in an amount as prescribed in subsection (b)(5).
- 37 (g) Cancellation of a surety bond issued under this section does not  
 38 affect any liability incurred or accrued during the period when the  
 39 surety bond was in effect.
- 40 (h) The director may obtain satisfaction from a surety bond issued  
 41 under this section if the director incurs expenses, issues a final order,  
 42 or recovers a final judgment under this chapter.



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

6 SECTION 58. IC 28-5-1-5 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 5. The capital stock of  
 8 any company engaged in business under the provisions of this chapter:

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

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

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

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

24 SECTION 59. IC 28-7-1-17, AS AMENDED BY P.L.69-2018,  
 25 SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2019]: Sec. 17. (a) Every loan application shall be submitted  
 27 on a form approved by the credit union. Loans may be ~~dispersed~~  
 28 **disbursed** upon written approval by a majority of the credit committee  
 29 or a loan officer. If the credit committee or loan officer fails to approve  
 30 an application for a loan, the applicant may appeal to the board of  
 31 directors, if such appeal is authorized by the bylaws.

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

34 (1) All loans shall be evidenced by notes signed by the borrowing  
 35 member.

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

42 (3) Loans may be made upon the security of improved or





1 unimproved real estate. Except as otherwise specified in this  
 2 section, such loans must be secured by a first lien upon real estate  
 3 prior to all other liens, except for taxes and assessments not  
 4 delinquent, and may be made with repayment terms other than as  
 5 provided in subdivision (2). The credit union loan folder for all  
 6 real estate mortgage loans shall include the following:

- 7 (A) The loan application.
- 8 (B) The mortgage instrument.
- 9 (C) The note.
- 10 (D) The disclosure statement.
- 11 (E) The documentation of property insurance.
- 12 (F) For the real estate for which the loan is made, a written  
 13 appraisal, which must be performed by a state licensed or  
 14 certified appraiser designated by the board of directors if the  
 15 amount of the loan is at least two hundred fifty thousand  
 16 dollars (\$250,000).

17 (4) Loans made upon security of real estate are subject to the  
 18 following restrictions:

- 19 (A) Real estate loans in which no principal amortization is  
 20 required shall provide for the payment of interest at least  
 21 annually and shall mature within five (5) years of the date of  
 22 the loan unless extended and shall not exceed fifty percent  
 23 (50%) of the fair cash value of the real estate used as security.
- 24 (B) Real estate loans on improved real estate, except for  
 25 variable rate mortgage loans and rollover mortgage loans  
 26 provided for in subdivision (5), shall require substantially  
 27 equal payments at successive intervals of not more than one  
 28 (1) year, shall mature within thirty (30) years, and shall not  
 29 exceed one hundred percent (100%) of the fair cash value of  
 30 the real estate used as security.
- 31 (C) Loans primarily secured by a mortgage which constitutes  
 32 a second lien on improved real estate may be made only if the  
 33 aggregate amount of all loans on the real estate does not  
 34 exceed one hundred percent (100%) of the fair cash value of  
 35 the real estate after such loan is made. Repayment terms shall  
 36 be in accordance with subdivision (2).
- 37 (D) Real estate loans may be made for the construction of  
 38 improvements to real property. Funds borrowed may be  
 39 advanced as work on the improvements progresses.  
 40 Repayment terms must comply with subdivision (2).

41 (5) Subject to the limitations of subdivision (3), variable rate  
 42 mortgage loans and rollover mortgage loans may be made under



1 the same limitations and rights provided state chartered savings  
 2 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or  
 3 federal credit unions.

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

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

24 (A) Any loan that may be made by a federal credit union.  
 25 However, IC 24-4.5 applies to any loan that is:

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

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

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

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

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

- 38 (A) subdivisions (2) through (6); or
- 39 (B) subdivision (7);

40 but not both. A credit union shall make an initial determination as  
 41 to whether to make a loan under subdivisions (2) through (6) or  
 42 under subdivision (7). If the credit union determines that a loan or



1 category of loans is to be made under subdivision (7), the written  
 2 loan policies of the credit union must include that determination.  
 3 A credit union may not combine the terms and conditions that  
 4 apply to a loan made under subdivisions (2) through (6) with the  
 5 terms and conditions that apply to a loan made under subdivision  
 6 (7) to make a loan not expressly described and authorized either  
 7 under subdivisions (2) through (6) or under subdivision (7).

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

10 SECTION 60. IC 28-7-5-8, AS AMENDED BY P.L.89-2011,  
 11 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2019]: Sec. 8. (a) Upon an applicant's filing of the application  
 13 required by section 4 of this chapter and payment of the license fee, if  
 14 the department finds the financial standing, competence, business  
 15 experience, and character of:

16 (1) the applicant ~~any employee of the applicant~~, and any  
 17 significant affiliate of the applicant;

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

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

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

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

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

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

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

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



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

4 SECTION 61. IC 28-8-4-20.5, AS AMENDED BY P.L.159-2017,  
5 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2019]: Sec. 20.5. (a) As used in this section, "Nationwide  
7 Multistate Licensing System and Registry" (or "Nationwide Mortgage  
8 Licensing System and Registry" or "NMLSR") means a multistate  
9 licensing system owned and operated by the State Regulatory Registry,  
10 LLC, or by any successor or affiliated entity, for the licensing and  
11 registration of creditors, mortgage loan originators, and other financial  
12 services entities and their employees and agents. The term includes any  
13 other name or acronym that may be assigned to the system by the State  
14 Regulatory Registry, LLC, or by any successor or affiliated entity.

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

- 17 (1) processing applications and renewals for licenses under this  
18 chapter;
- 19 (2) issuing unique identifiers for licensees and entities exempt  
20 from licensing under this chapter; 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 (c) Subject to the confidentiality provisions contained in IC 5-14-3,  
25 this section, and section 47 of this chapter, the director ~~shall~~ **may**  
26 regularly report significant or recurring violations of this chapter to the  
27 NMLSR.

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

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

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

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

- 38 (1) Information stored in the NMLSR is subject to the  
39 confidentiality provisions of IC 5-14-3 and section 47 of this  
40 chapter. A person may not:  
41 (A) obtain information from the NMLSR, unless the person is  
42 authorized to do so by statute;



- 1 (B) initiate any civil action based on information obtained  
 2 from the NMLSR if the information is not otherwise available  
 3 to the person under any other state law; or  
 4 (C) initiate any civil action based on information obtained  
 5 from the NMLSR if the person could not have initiated the  
 6 action based on information otherwise available to the person  
 7 under any other state law.
- 8 (2) Documents, materials, and other forms of information in the  
 9 control or possession of the NMLSR that are confidential under  
 10 section 47 of this chapter and that are:  
 11 (A) furnished by the director, the director's designee, or a  
 12 licensee; or  
 13 (B) otherwise obtained by the NMLSR;  
 14 are confidential and privileged by law and are not subject to  
 15 inspection under IC 5-14-3, subject to subpoena, subject to  
 16 discovery, or admissible in evidence in any civil action. However,  
 17 the director may use the documents, materials, or other  
 18 information available to the director in furtherance of any action  
 19 brought in connection with the director's duties under this chapter.
- 20 (3) Disclosure of documents, materials, and information:  
 21 (A) to the director; or  
 22 (B) by the director;  
 23 under this subsection does not result in a waiver of any applicable  
 24 privilege or claim of confidentiality with respect to the  
 25 documents, materials, or information.
- 26 (4) Information provided to the NMLSR is subject to IC 4-1-11.
- 27 (5) This subsection does not limit or impair a person's right to:  
 28 (A) obtain information;  
 29 (B) use information as evidence in a civil action or  
 30 proceeding; or  
 31 (C) use information to initiate a civil action or proceeding;  
 32 if the information may be obtained from the director or the  
 33 director's designee under any law.
- 34 (6) The requirements under any federal law or IC 5-14-3  
 35 regarding the privacy or confidentiality of any information or  
 36 material provided to the NMLSR, and any privilege arising under  
 37 federal or state law, including the rules of any federal or state  
 38 court, with respect to the information or material, continue to  
 39 apply to the information or material after the information or  
 40 material has been disclosed to the NMLSR. The information and  
 41 material may be shared with all state and federal regulatory  
 42 officials with financial services industry oversight authority



1 without the loss of privilege or the loss of confidentiality  
 2 protections provided by federal law or IC 5-14-3.

3 (7) For purposes of this section, the director may enter agreements  
 4 or sharing arrangements with other governmental agencies, the  
 5 Conference of State Bank Supervisors, the Money Transmitters  
 6 Regulators Association, or other associations representing  
 7 governmental agencies, as established by rule or order of the  
 8 director.

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

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

14 (B) subpoena, discovery, or admission into evidence in any  
 15 private civil action or administrative process, unless with  
 16 respect to any privilege held by the NMLSR with respect to  
 17 the information or material, the person to whom the  
 18 information or material pertains waives, in whole or in part, in  
 19 the discretion of the person, that privilege.

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

21 (A) confidential supervisory information; or

22 (B) any information or material described in subdivision (6);  
 23 and that is inconsistent with subdivision (6) is superseded by this  
 24 section.

25 (10) This section does not apply with respect to information or  
 26 material that concerns the employment history of, and publicly  
 27 adjudicated disciplinary and enforcement actions against, a  
 28 person described in section 35(b)(2) or 35(b)(3) of this chapter  
 29 and that is included in the NMLSR for access by the public.

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

34 (A) require review of; and

35 (B) make available;

36 the audited financial statements of the NMLSR.

37 (12) Notwithstanding any other provision of law, any:

38 (A) application, renewal, or other form or document that:

39 (i) relates to licenses issued under this chapter; and

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

41 (B) document filed as an electronic record in a multistate  
 42 automated repository established and operated for the



- 1           licensing or registration of financial services entities and their  
2           employees; or  
3           (C) electronic record filed through the NMLSR;  
4           is considered a valid original document when reproduced in paper  
5           form by the department.
- 6           SECTION 62. IC 28-8-4-27, AS AMENDED BY P.L.216-2013,  
7           SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8           JULY 1, 2019]: Sec. 27. (a) An application for licensure under this  
9           chapter must be accompanied by a surety bond in accordance with this  
10          section.
- 11          (b) The surety bond required under subsection (a) must:
- 12           (1) be in the amount of three hundred thousand dollars  
13           (\$300,000);  
14           (2) be in a form acceptable to the director;  
15           (3) be in effect during the term of the license issued under this  
16           chapter;  
17           (4) remain in effect during the five (5) years after the licensee  
18           ceases offering money transmission services in Indiana;  
19           (5) be payable to the department for the benefit of:
- 20           (A) the state;  
21           (B) individuals who reside in Indiana when they agree to  
22           receive money transmission services from the licensee; and  
23           (C) entities that do business in Indiana when they agree to  
24           receive money transmission services from the licensee;
- 25           (6) be issued by a bonding, surety, or insurance company  
26           authorized to do business in Indiana and rated at least "A-" by at  
27           least one (1) nationally recognized investment rating service; and  
28           (7) have payment conditioned upon the licensee's or any of the  
29           licensee's employees' or agents' noncompliance with or violation  
30           of this chapter or other applicable federal or state laws or  
31           regulations.
- 32          (c) The director may adopt rules or guidance documents with  
33          respect to the requirements for a surety bond as necessary to  
34          accomplish the purposes of this chapter.
- 35          (d) If the principal amount of a surety bond required under this  
36          section is reduced by payment of a claim or judgment, the licensee for  
37          whom the bond is issued shall immediately notify the director of the  
38          reduction and, not later than thirty (30) days after notice by the  
39          director, file a new or an additional surety bond in the amount needed  
40          to restore the amount of the surety bond to three hundred thousand  
41          dollars (\$300,000).
- 42          (e) If for any reason a surety terminates a bond issued under this



1 section, the licensee shall immediately notify the department and file  
 2 a new surety bond in the amount of three hundred thousand dollars  
 3 (\$300,000).

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

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

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

15 SECTION 63. IC 28-10-1-1, AS AMENDED BY P.L.69-2018,  
 16 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 1. A reference to a federal law or federal  
 18 regulation in this title is a reference to the law or regulation as in effect  
 19 December 31, ~~2017~~: **2018**.

20 SECTION 64. IC 28-14-1-3 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. "Clearing  
 22 corporation" has the meaning set forth in ~~IC 26-1-8-102~~.  
 23 **IC 26-1-8.1-102**.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1447, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 24, between lines 23 and 24, begin a new paragraph and insert:

"SECTION 12. IC 24-4.5-2-407.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 407.5. The leasing of live animals under this chapter is prohibited.**"

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1447 as introduced.)

BURTON

Committee Vote: yeas 10, nays 0.

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 COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1447, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 56, delete lines 33 through 34.

Page 57, line 39, delete "annually" and insert "**at consummation and each year after consummation**".

Page 58, line 3, delete "annually" and insert "**at consummation and each year after consummation**".

and when so amended that said bill do pass.

(Reference is to HB 1447 as printed January 29, 2019.)

BASSLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

**EH 1447—LS 7558/DI 101**



SENATE MOTION

Madam President: I move that Engrossed House Bill 1447 be amended to read as follows:

Page 24, line 26, delete "animals" and insert "**domestic animals (as defined in IC 34-30-30-1)**".

Page 49, line 6, delete "animals;" and insert "**domestic animals (as defined in IC 34-30-30-1);**".

(Reference is to EHB 1447 as printed April 5, 2019.)

WALKER

