

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

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

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

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

HOUSE ENROLLED ACT No. 1353

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 24-4.4-1-101, AS AMENDED BY P.L.27-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 101. (a) This article shall be known and may be cited as the First Lien Mortgage Lending Act.

(b) Notwithstanding any other provision of this article or IC 24-4.5, the department may adopt emergency rules under IC 4-22-2-37.1, to remain effective until codified in the Indiana Code, in order to provide for a system of licensing creditors and mortgage loan originators that meets the requirements of:

- (1) the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V) and the interpretations of that Act issued by the Secretary of Housing and Urban Development and the Consumer Financial Protection Bureau; **and**
- (2) **the subsequent amendment of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by the Economic Growth, Regulatory Relief, and Consumer Protection Act (P.L. 115-174, 132 Stat. 1296).**

SECTION 2. IC 24-4.4-1-102, AS AMENDED BY P.L.176-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

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

- (a) to permit and encourage the development of fair and economically sound first lien mortgage lending practices; and
- (b) to conform the regulation of first lien mortgage lending practices to applicable state and federal laws, rules, regulations, policies, and guidance.

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

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2018~~: **2019**.

SECTION 3. IC 24-4.4-2-402.3, AS AMENDED BY P.L.176-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 402.3. (1) Each:

- (a) creditor; and
- (b) person that is exempt (either under this article or under IC 24-4.5) from licensing to engage in mortgage loans and that:
 - (i) employs a licensed mortgage loan originator; or
 - (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

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

(2) A surety bond must:

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

in an amount as prescribed in subsection (4);

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

(c) be in effect:

- (i) during the term of the creditor's license; or
- (ii) at any time during which the person exempt from licensing employs a licensed mortgage loan originator or sponsors under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent;

as applicable;

(d) **subject to subsection (3)**, remain in effect during the two (2) years after:

- (i) the **license of the** creditor ~~ceases offering financial services~~



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

as applicable;

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

(i) the state; and

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

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

(g) have payment conditioned upon:

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

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

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

(3) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this article. **Upon written request from:**

(a) a creditor described in subsection (1)(a); or

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

the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (2)(d) during which a surety bond required by this section must remain in effect after the occurrence of an event described in subsection (2)(d)(i) or (2)(d)(ii), as applicable.

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



the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

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

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

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

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

SECTION 4. IC 24-4.5-1-102, AS AMENDED BY P.L.176-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

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

- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
- (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;
- (e) to permit and encourage the development of fair and economically sound consumer credit practices;
- (f) to conform the regulation of consumer credit transactions to the policies of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) and to applicable state and federal laws, rules, regulations, policies, and guidance; and
- (g) to make uniform the law, including administrative rules among the various jurisdictions.

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

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(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2018~~: **2019**.

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

- (a) is in substance a disguised consumer credit transaction; or
- (b) involves the application of subterfuge for the purpose of avoiding this article.

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

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

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

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

SECTION 5. IC 24-4.5-2-203.5, AS AMENDED BY P.L.280-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019 (RETROACTIVE)]: Sec. 203.5. Delinquency Charges — (1) With respect to a consumer credit sale, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than **the following**:

- (a) Five dollars (\$5) on any installment or minimum payment due that is not paid in full ~~within not later than~~ ten (10) days after its scheduled due date, **in the case of a consumer credit sale, refinancing, or consolidation that is made before July 1, 2019. The amount of five dollars (\$5) in this subdivision is subject to change under IC 24-4.5-1-106. In addition, the parties may provide by contract for a delinquency charge that is subject to change. If the parties provide by contract for a delinquency charge that is subject to change, the seller shall disclose in the contract that the amount of the delinquency charge is subject to change under IC 24-4.5-1-106 or this section.**
- (b) **In the case of a consumer credit sale, refinancing, or consolidation that is made after June 30, 2019, the following:**
 - (i) **Five dollars (\$5) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, if installments under the consumer credit sale, refinancing, or consolidation are due**



every fourteen (14) days or less. **The amount of five dollars (\$5) in this clause is not subject to change under IC 24-4.5-1-106.**

~~(b)~~ **(ii)** Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full ~~within~~ **not later than** ten (10) days after its scheduled due date, if installments under the consumer credit sale, refinancing, or consolidation are due every fifteen (15) days or more. ~~or~~ **The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 24-4.5-1-106.**

~~(c)~~ **(iii)** Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full ~~within~~ **not later than** ten (10) days after its scheduled due date, in the case of a consumer credit sale, refinancing, or consolidation that is payable in a single installment that is due at least thirty (30) days after the consumer credit sale, refinancing, or consolidation is made. **The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 24-4.5-1-106.**

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. A delinquency charge on consumer credit sales made under a revolving charge account may be applied each month that the payment is less than the minimum required payment. A delinquency charge may be collected any time after it accrues. No delinquency charge may be collected if:

- (a)** the installment has been deferred and a deferral charge (IC 24-4.5-2-204) has been paid or incurred;
- (b)** **a charge for a skip-a-payment service under IC 24-4.5-2-202(1)(f) has been paid or incurred, as provided in IC 24-4.5-2-202(1)(f)(iii); or**
- (c)** **a charge for an optional expedited payment service under IC 24-4.5-2-202(1)(g) has been paid or incurred, as provided in IC 24-4.5-2-202(1)(g)(v).**

(3) A creditor may not, directly or indirectly, charge or collect a delinquency charge on a payment that:

- (a) is paid ~~within~~ **not later than** ten (10) days after its scheduled due date; and
- (b) is otherwise a full payment of the payment due for the applicable installment period;

if the only delinquency with respect to the consumer credit sale, refinancing, or consolidation is attributable to a delinquency charge



assessed on an earlier installment.

(4) If two (2) or more installments, or parts of two (2) or more installments, of a precomputed consumer credit sale are in default for ten (10) days or more, the creditor may elect to convert the consumer credit sale from a precomputed consumer credit sale to a consumer credit sale in which the credit service charge is based on unpaid balances. A creditor that makes this election shall make a rebate under the provisions on rebates upon prepayment under IC 24-4.5-2-210 as of the maturity date of the first delinquent installment, and thereafter may make a credit service charge as authorized by the provisions on credit service charges for consumer credit sales under IC 24-4.5-2-201. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge under IC 24-4.5-2-210. Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

~~(5) If the parties provide by contract for a delinquency charge that is subject to change, the seller shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.~~

SECTION 6. IC 24-4.5-3-203.5, AS AMENDED BY P.L.280-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019 (RETROACTIVE)]: Sec. 203.5. Delinquency Charges — (1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than **the following:**

(a) Five dollars (\$5) on any installment or minimum payment due that is not paid in full ~~within not later than~~ **ten (10) days after its scheduled due date, in the case of a consumer loan, refinancing, or consolidation that is made before July 1, 2019. The amount of five dollars (\$5) in this subdivision is subject to change under IC 24-4.5-1-106. In addition, the parties may provide by contract for a delinquency charge that is subject to change. If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose in the contract that the amount of the delinquency charge is subject to change under IC 24-4.5-1-106 or this section.**

(b) **In the case of a consumer loan, refinancing, or consolidation that is made after June 30, 2019, the following:**

(i) **Five dollars (\$5) on any installment or minimum payment due that is not paid in full not later than ten (10) days after its scheduled due date, if installments under the**



consumer loan, refinancing, or consolidation are due every fourteen (14) days or less. **The amount of five dollars (\$5) in this clause is not subject to change under IC 24-4.5-1-106.** ~~(b)~~ **(ii)** Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full ~~within~~ **not later than** ten (10) days after its scheduled due date, if installments under the consumer loan, refinancing, or consolidation are due every fifteen (15) days or more. ~~or The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 24-4.5-1-106.~~

~~(c)~~ **(iii)** Twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full ~~within~~ **not later than** ten (10) days after its scheduled due date, in the case of a consumer loan, refinancing, or consolidation that is payable in a single installment that is due at least thirty (30) days after the consumer loan, refinancing, or consolidation is made. **The amount of twenty-five dollars (\$25) in this clause is not subject to change under IC 24-4.5-1-106.**

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. With regard to a delinquency charge on consumer loans made under a revolving loan account, the delinquency charge may be applied each month that the payment is less than the minimum required payment on the account. A delinquency charge may be collected any time after it accrues. A delinquency charge may not be collected if:

- (a) the installment has been deferred and a deferral charge (IC 24-4.5-3-204) has been paid or incurred;
- (b) a charge for a skip-a-payment service under IC 24-4.5-3-202(1)(i) has been paid or incurred, as provided in IC 24-4.5-3-202(1)(i)(iii); or**
- (c) a charge for an optional expedited payment service under IC 24-4.5-3-202(1)(j) has been paid or incurred, as provided in IC 24-4.5-3-202(1)(j)(v).**

(3) A creditor may not, directly or indirectly, charge or collect a delinquency charge on a payment that:

- (a) is paid ~~within~~ **not later than** ten (10) days after its scheduled due date; and
- (b) is otherwise a full payment of the payment due for the applicable installment period;

if the only delinquency with respect to the consumer loan, refinancing, or consolidation is attributable to a delinquency charge assessed on an earlier installment.



(4) If two (2) or more installments, or parts of two (2) or more installments, of a precomputed loan are in default for ten (10) days or more, the lender may elect to convert the loan from a precomputed loan to a loan in which the finance charge is based on unpaid balances. A lender that makes this election shall make a rebate under the provisions on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charges for consumer loans (IC 24-4.5-3-201) or supervised loans (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the amount of any permitted minimum charge (IC 24-4.5-3-210). Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

~~(5) If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.~~

SECTION 7. IC 24-4.5-3-503.3, AS AMENDED BY P.L.176-2019, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 503.3. (1) Each:

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

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

(2) A surety bond must:

- (a) provide coverage for:
 - (i) a creditor described in subsection (1)(a); and
 - (ii) an exempt person described in subsection (1)(b);

in an amount as prescribed in subsection (4);

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

(c) be in effect:

- (i) during the term of the creditor's license; or
- (ii) at any time during which the person exempt from licensing employs a licensed mortgage loan originator, or sponsors under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator



as an independent agent;

as applicable;

(d) **subject to subsection (3)**, remain in effect during the two (2) years after:

(i) the **license of the creditor ceases offering financial services to individuals in Indiana; is surrendered or terminated;** or

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

as applicable;

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

(i) the state; and

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

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

(g) have payment conditioned upon:

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

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

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

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

(a) a creditor described in subsection (1)(a); or

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

the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (2)(d) during which a surety bond required by this section must remain in effect after the occurrence of an event described in subsection (2)(d)(i) or (2)(d)(ii), as applicable.

(4) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of mortgage transactions originated as determined by the director. If the principal amount of a



surety bond required under this section is reduced by payment of a claim or judgment, the creditor or exempt person for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in an amount set by the director. The amount of the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

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

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

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

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

SECTION 8. IC 24-4.5-7-413, AS AMENDED BY P.L.216-2013, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 413. (1) A person engaged in making small loans under this chapter shall post a bond to the department in the amount of fifty thousand dollars (\$50,000) for each location where small loans will be made, up to a maximum bond in an amount determined by the director.

(2) A surety bond issued under this section must:

- (a) provide coverage for a lender engaged in making small loans under this chapter in an amount as prescribed in subsection (1);
- (b) be in a form prescribed by the director;
- (c) be in effect during the term of the lender's license under this chapter;
- (d) **subject to subsection (3), remain in effect during the two (2) years after the lender ceases offering financial services to individuals in Indiana; lender's license under this chapter is surrendered or terminated;**
- (e) be payable to the department for the benefit of:
 - (i) the state; and
 - (ii) individuals who reside in Indiana when they agree to receive financial services from the lender;
- (f) be issued by a bonding, surety, or insurance company



authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and (g) have payment conditioned upon the lender's or any of the lender's employees' or agents' noncompliance with or violation of this article or other applicable federal or state laws or regulations.

(3) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter. **Upon written request from a lender, the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (2)(d) during which a surety bond required by this section must remain in effect after the lender's license under this chapter is surrendered or terminated.**

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

(5) If for any reason a surety terminates a bond issued under this section, the lender shall immediately notify the department and file a new surety bond in an amount as prescribed in subsection (1).

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

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

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

SECTION 9. IC 24-12-9-8, AS ADDED BY P.L.176-2019, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) If required by the department, each CPAP provider licensed by the department under this article must be covered by a surety bond in accordance with this section in an amount not to exceed fifty thousand dollars (\$50,000).

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

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



- (2) be in a form prescribed by the director;
- (3) be in effect during the term of the CPAP provider's license under this article;
- (4) **subject to subsection (c)**, remain in effect during the two (2) years after the **license of the CPAP provider ceases offering CPAP transactions to individuals in Indiana; is surrendered or terminated;**
- (5) be payable to the department for the benefit of:
 - (A) the state; and
 - (B) individuals who reside in Indiana when they agree to enter into CPAP transactions with the CPAP provider;
- (6) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and
- (7) have payment conditioned upon the CPAP provider's noncompliance with or violation of this chapter or other federal or state laws or regulations applicable to CPAP transactions.

(c) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this article. **Upon written request from a CPAP provider, the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (b)(4) during which a surety bond required by this section must remain in effect after the CPAP provider's license under this article is surrendered or terminated.**

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

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

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

(g) The director may obtain satisfaction from a surety bond issued under this section if the director incurs expenses, issues a final order,



or recovers a final judgment under this chapter.

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

SECTION 10. IC 28-1-29-6, AS AMENDED BY P.L.176-2019, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 6. (a) Each application for a license must be accompanied by proof that the applicant has executed a surety bond in accordance with this section.

(b) A surety bond issued under this section must:

- (1) be in a form prescribed by the director;
- (2) be in effect during the term of the license issued under this chapter;
- (3) **subject to subsection (c)**, remain in effect during the two (2) years after the **license of the licensee ceases offering debt management services to individuals in Indiana; is surrendered or terminated;**
- (4) be payable to the department for the benefit of:
 - (A) the state; and
 - (B) individuals who reside in Indiana when they agree to receive debt management services from the licensee;
- (5) be in an amount equal to:
 - (A) fifty thousand dollars (\$50,000), in the case of an initial surety bond issued under this section; or
 - (B) the amount prescribed under subsection (d), beginning with the first renewal of a license under this chapter;
- (6) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and
- (7) have payment conditioned upon the licensee's or any of the licensee's employees' or agents' noncompliance with or violation of this chapter or other applicable federal or state laws or regulations.

(c) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter. **Upon written request from a licensee, the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (b)(3) during which a surety bond required by this section must remain in effect after the licensee's license is surrendered or terminated.**

(d) Beginning with the first renewal of a license under this chapter, each year that a licensee continues to offer debt management services



to individuals in Indiana, the licensee shall file a new or an additional surety bond in an amount that ensures that the licensee's surety bond under this section is equal to the greater of the following:

- (1) fifty thousand dollars (\$50,000); or
- (2) the average of the highest daily balance of funds held in trust for Indiana residents for each month during the licensee's most recently concluded fiscal year, not to exceed one hundred thousand dollars (\$100,000).

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

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

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

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

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

SECTION 11. IC 28-7-1-0.5, AS AMENDED BY P.L.137-2014, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 0.5. The following definitions apply throughout this chapter:

- (1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.
- (2) "Branch" office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:
 - (A) the principal office of a credit union;
 - (B) the principal office of a credit union affiliate;
 - (C) a branch office of a credit union affiliate;



- (D) an automated teller machine; or
 - (E) a night depository.
- (3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.
- (4) "Department" refers to the department of financial institutions.
- (5) "Surplus" means the credit balance of undivided earnings after losses. The term does not include statutory reserves.
- (6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.
- (7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization (as defined and formed under Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712) in which the credit union has invested under section 9(a)(4) of this chapter.
- (8) "Premises" means any office, branch, ~~office~~, suboffice, service center, parking lot, real estate, or other facility where the credit union transacts or will transact business.
- (9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.
- (10) "Fixed assets" means:
- (A) premises; and
 - (B) furniture, fixtures, and equipment.
- (11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.
- (12) "Community" means:
- (A) a second class city;
 - (B) a third class city;
 - (C) a town;
 - (D) a county other than a county containing a consolidated city;
 - (E) a census tract;
 - (F) a township; or
 - (G) any other municipal corporation (as defined in IC 36-1-2-10).
- (13) "Control of a related interest" refers to a situation in which



an individual directly or indirectly, or through or in concert with one (1) or more other individuals, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of any class of voting securities of the related interest.

(B) The control in any manner of the election of a majority of the directors of the related interest.

(C) The power to exercise a controlling influence over the management or policies of the related interest. For purposes of this clause, an individual is presumed to have control, including the power to exercise a controlling influence over the management or policies of a related interest, if the individual:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(14) "Executive officer" includes any of the following officers of a credit union:

(A) The chairman of the board of directors.

(B) The president.

(C) A vice president.

(D) The cashier.

(E) The secretary.

(F) The treasurer.

(15) "Immediate family", for purposes of ~~sections 17.1 and~~ **section 17.2** of this chapter, means the spouse of an individual, the individual's minor children, and any of the individual's children, including adults, residing in the individual's home.

(16) "Officer" means any individual who is not solely a director or committee member and participates or has the authority to participate in major policymaking functions of a credit union, regardless of whether:

(A) the individual has an official title;

(B) the individual's title designates the individual as an assistant; or

(C) the individual is serving without salary or other



compensation.

- (17) "Related interest", with respect to an individual, means:
- (A) a partnership, a corporation, or another business organization that is controlled by the individual; or
 - (B) a political campaign committee:
 - (i) controlled by the individual; or
 - (ii) the funds or services of which benefit the individual.
- (18) Except as provided in section 9(a)(4) of this chapter, "capital and surplus" means the sum of:
- (A) undivided profits;
 - (B) reserve for contingencies;
 - (C) regular reserve; and
 - (D) allowance for loan and lease losses.

SECTION 12. IC 28-7-1-9, AS AMENDED BY P.L.69-2018, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. (a) A credit union has the following powers:

- (1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.
- (2) To ~~make loans extend credit~~ to officers, directors, or committee members under ~~sections 17.1 and section 17.2~~ of this chapter.
- (3) To invest in any of the following:
 - (A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.
 - (B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).
 - (C) Obligations of national mortgage associations issued under the authority of the National Housing Act.
 - (D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).
 - (E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).
 - (F) Savings and loan associations, other credit unions that are insured under section 31.5 of this chapter, and certificates of indebtedness or investment of an industrial loan and



investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company, nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Shares or certificates of an open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C. 80a-4 through 15 U.S.C. 80a-64), if all of the following conditions are met:

(i) The fund's assets consist of and are limited to securities in which a credit union may invest directly.

(ii) The credit union has an equitable and undivided interest in the underlying assets of the fund.

(iii) The credit union is not liable for acts or obligations of the fund.

(iv) The credit union's investment in any one (1) fund does not exceed fifteen percent (15%) of the amount of the credit union's net worth.

(J) For a credit union that is well capitalized (as defined in Part 702 of the Rules and Regulations of the National Credit Union Administration, 12 CFR 702), investment securities, as may be defined by a statute or a policy or rule of the department and subject to the following:

(i) The department may prescribe, by policy or rule, limitations or restrictions on a credit union's investment in investment securities.

(ii) The total aggregate amount of investment securities purchased or held by a credit union may never exceed at any given time ten percent (10%) of the capital and surplus of the credit union. However, the limitations imposed by this item do not apply to investments in the direct or indirect obligations of the United States or in the direct obligations of a United States territory or insular possession, or in the direct obligations of the state or any municipal corporation or taxing district in Indiana.

(iii) A credit union may not purchase for its own account any bond, note, or other evidence of indebtedness that is



commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this item, a security is speculative or has speculative characteristics if at the time of purchase the security is in default, is rated below the first four (4) rating classes by a generally recognized security rating service, or is otherwise considered speculative by the director.

(iv) A credit union may purchase for its own account a security that is not rated by a generally recognized security rating service if the credit union at the time of purchase obtains financial information that is adequate to document the investment quality of the security and if the security is not otherwise considered speculative by the director.

(v) A credit union that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

(vi) Except as otherwise authorized by this title, a credit union may not acquire for its own account, whether by purchase or otherwise, any share of stock of a corporation that is not a subsidiary of that credit union unless the acquisition is considered expedient to prevent loss from a debt previously contracted in good faith. Any shares of stock or other ownership interest in a corporation or another entity thus acquired by a credit union and that would not have been eligible for acquisition shall be sold and disposed of within six (6) months from the date of acquisition unless the director grants an extension of time for the sale and disposition.

(vii) Subject to items (i) through (iv), a credit union may purchase yankee dollar deposits, eurodollar deposits, banker's acceptances, deposit notes, bank notes with original weighted average maturities of less than five (5) years, and investments in obligations of, or issued by, any state or political subdivision (including any agency, corporation, or instrumentality of a state or political subdivision).

(K) Collateralized obligations that are eligible for purchase and sale by federal credit unions. However, a credit union may purchase for its own account and sell the obligations only to the extent that a federal credit union can purchase and sell those obligations.

(4) With the prior approval of the department, and subject to the



limitations of this subsection, a credit union may organize, invest in, or loan money to a credit union service organization (as defined in Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712). A credit union may not loan or invest in a credit union service organization if the aggregate amount of all such loans or investments in a particular credit union service organization is greater than ten percent (10%) of the capital, surplus, and unimpaired shares of the credit union without the prior written approval of the department. A credit union may organize, invest in, or loan money to a credit union service organization described in this subdivision only if the following requirements are met:

- (A) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if the credit union service organization is to be formed or is newly formed.
 - (B) The credit union service organization is structured and operated as a separate legal entity from the credit union.
 - (C) The credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the credit union's potential liability for the debts and liabilities of the credit union service organization to not more than the loss of money invested in or loaned to the credit union service organization by the credit union.
 - (D) The credit union service organization agrees in writing to prepare financial statements and provide the financial statements to the credit union at least quarterly, and to the department upon request.
 - (E) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the credit union, and to the department upon request. A wholly owned credit union service organization is not required to obtain a separate annual audit if the credit union service organization is included in the annual consolidated audit of the credit union that is the credit union service organization's parent.
 - (F) The credit union service organization operates in compliance with all applicable federal and state laws.
- (5) To deposit its funds into:
- (A) depository institutions that are federally insured; or
 - (B) state chartered credit unions that are privately insured by



an insurer approved by the department.

- (6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.
- (7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.
- (8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.
- (9) To charge the member's share account for the actual cost of a necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.
- (10) To transfer to an accounts payable account, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of at least two (2) years. The credit union shall not consider the payment of dividends on the transferred account.
- (11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department. A credit union may rent excess space at the credit union's main office or branch as a source of income.
- (12) To establish branch offices upon:
- (A) approval of the department; or
 - (B) meeting the department's established criteria to be exempt from the department's approval;
- provided that all books of account shall be maintained at the principal office.
- (13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.
- (14) To purchase life savings and loan protection insurance for



the benefit of the credit union and its members, if:

- (A) the coverage is placed with an insurance company licensed to do business in Indiana; and
 - (B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.
- (15) To sell and cash negotiable checks, travelers checks, and money orders for members.
- (16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of the purchasing credit union's capital and surplus unless special written authorization has been granted by the department.
- (17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.
- (18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a tax advantaged savings plan which qualifies or qualified for specific tax treatment under Section 223, 401(d), 408, 408A, or 530 of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.
- (19) To issue shares or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.
- (20) To exercise any rights and privileges that are:
- (A) granted to federal credit unions; but
 - (B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;
- if the credit union complies with section 9.2 of this chapter.
- (21) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.
- (22) To purchase assets of a corporation (as defined in IC 28-1-8-0.5) and to assume the liabilities of the corporation, or



to sell, lease, exchange, or otherwise dispose of all or substantially all of the credit union's property and assets to a corporation, if:

(A) the credit union complies with IC 28-1-8; and

(B) the transaction is authorized in accordance with IC 28-1-8-4.

(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed twenty percent (20%) of the total assets of that credit union, excluding those public funds.

(24) To join the National Credit Union Administration Central Liquidity Facility.

(25) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one-tenth of one percent (0.1%) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(26) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

(27) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by



agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

(28) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

(b) A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this chapter or by rule, order, or declaratory ruling of the department.

(c) Subject to any limitations or restrictions that the department or a federal regulator may impose by regulation, rule, policy, or guidance, a credit union may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the credit union's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the credit union's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a federal credit union may purchase or hold under 12 CFR 701.19(c).

SECTION 13. IC 28-7-1-17, AS AMENDED BY P.L.176-2019, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the credit union. Loans may be disbursed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, if such appeal is authorized by the bylaws.

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

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

(2) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will



amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization. (3) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (2). The credit union loan folder for all real estate mortgage loans shall include the following:

- (A) The loan application.
- (B) The mortgage instrument.
- (C) The note.
- (D) The disclosure statement.
- (E) The documentation of property insurance.
- (F) For the real estate for which the loan is made:
 - (i) a written appraisal; ~~which must be performed by a state licensed or certified appraiser designated by the board of directors if the amount of the loan is at least two hundred fifty thousand dollars (\$250,000); or~~
 - (ii) a written estimate of market value; consistent with the appraisal standards and transaction value limitations set forth in the appraisal regulations of the National Credit Union Administration (12 CFR 722).**

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

- (A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.
- (B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.
- (C) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of



the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (2).

(D) Real estate loans may be made for the construction of improvements to real property. Funds borrowed may be advanced as work on the improvements progresses.

Repayment terms must comply with subdivision (2).

(5) Subject to the limitations of subdivision (3), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.

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

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

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

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

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

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

A loan made under this clause by a credit union is subject to the same terms, conditions, exceptions, and limitations that



apply to an alternative mortgage loan made by a savings association under IC 28-15-11.

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

(A) subdivisions (2) through (6); or

(B) subdivision (7);

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

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

SECTION 14. IC 28-7-1-17.1 IS REPEALED [EFFECTIVE JULY 1, 2020]. ~~Sec. 17.1. (a) A credit union may make a loan to the credit union's individual directors and committee members under the following terms and conditions:~~

~~(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.~~

~~(2) The loan may not be on terms more favorable than those extended to other borrowers.~~

~~(3) The borrower may not:~~

~~(A) take part in the consideration of; or~~

~~(B) vote on;~~

~~the borrower's loan application.~~

~~(4) Except as provided in subsection (b), a credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the greater of:~~

~~(A) five percent (5%) of the credit union's capital and surplus;~~

~~or~~

~~(B) twenty-five thousand dollars (\$25,000);~~

~~unless the loan is first approved by the credit union's board of directors.~~

~~(5) A credit union may not make a loan under this section to an~~



individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(6) The total amount of all loans made under this section may not exceed the credit union's capital and surplus. However, the limit set forth in this subdivision does not apply to either of the following:

(A) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(B) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(b) Approval by the board of directors under subsection (a)(4) is not required for an extension of credit made under a line of credit approved under subsection (a)(4) if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.

(c) The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

(d) If a loan made to or cosigned, endorsed, or guaranteed by a director or a member of the supervisory, credit, or other committee is more than three (3) months delinquent, the individual:

(1) is automatically removed from the individual's position as director or committee member; and

(2) is ineligible to serve as a director or committee member for two (2) years.

The director may waive the application of this subsection if the director determines that it is in the best interests of the credit union.

SECTION 15. IC 28-7-1-17.2, AS AMENDED BY P.L.40-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 17.2. (a) A credit union may **make a loan extend credit** to: the credit union's individual officers under the following terms and conditions:

(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.

(2) The loan may not be on terms more favorable than those extended to other borrowers unless the loan is made in connection with a benefit or compensation plan that:



(A) is widely available to employees of the credit union; and
 (B) does not give preference to any officers of the credit union over other employees of the credit union.

(3) The loan must be promptly reported to the credit union's board of directors.

(4) A loan to the officer, the officer's immediate family, or the officer's related interests either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, for any purpose, must be made

(1) an officer, an officer's immediate family member, or an officer's related interests;

(2) a director, a director's immediate family member, or a director's related interests; or

(3) a supervisory committee member, a supervisory committee member's immediate family member, or a supervisory committee member's related interests;

in accordance with the definitions, restrictions, and provisions of Regulation O of the Board of Governors of the Federal Reserve System (12 CFR 215.5 (Regulation O): 215). Restrictions on extensions of credit to supervisory committee members, and to the immediate family members or related interests of supervisory committee members, shall be treated consistently with restrictions on extensions of credit to directors as imposed by Regulation O. For purposes of applying Regulation O to an extension of credit made by a credit union under this section, the term "unimpaired capital and unimpaired surplus", as used in Regulation O, is considered to mean "capital and surplus" (as defined in section 0.5(18) of this chapter).

(b) A credit union may not make a loan under this section to an officer, the officer's immediate family, or the officer's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(c) (b) If an extension of credit made to or cosigned, endorsed, or guaranteed by a director or a member of the supervisory, credit, or other committee is more than three (3) months delinquent, the individual:

(1) is automatically removed from the individual's position as director or committee member; and

(2) is ineligible to serve as a director or committee member



for two (2) years.

The **director of the** department may ~~apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.~~ **waive the application of this subsection if the director determines that a waiver is in the best interests of the credit union.**

SECTION 16. IC 28-7-5-5.5, AS ADDED BY P.L.216-2013, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5.5. (a) Each person engaged in the business of pawnbroking in Indiana must be covered by a surety bond in accordance with this section. The initial application and any renewal application for licensure under this chapter must be accompanied by proof that the applicant has executed a bond in accordance with this section.

(b) A surety bond issued under this section must:

- (1) provide coverage for the licensee and the licensee's employees and agents in an amount determined by the director;
- (2) be in a form prescribed by the director;
- (3) be in effect during the term of the license issued under this chapter;
- (4) **subject to subsection (c), remain in effect during the two (2) years after the license of the licensee ceases offering pawnbroking services to individuals in Indiana; is surrendered or terminated;**
- (5) be payable to the department for the benefit of:
 - (A) the state; and
 - (B) individuals who reside in Indiana when they agree to receive pawnbroking services from the licensee;
- (6) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and
- (7) have payment conditioned upon the licensee's or any of the licensee's employees' or agents' noncompliance with or violation of this chapter or other applicable federal or state laws or regulations.

(c) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter. **Upon written request from a licensee, the director may, at the discretion of the director, waive or shorten the two (2) year period set forth in subsection (b)(4) during which a surety bond required by this section must remain in effect after the licensee's license is surrendered or terminated.**

(d) If the principal amount of a surety bond required under this



section is reduced by payment of a claim or judgment, the licensee for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in an amount set by the director. The amount of the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

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

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

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

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

SECTION 17. IC 28-7-5-10, AS AMENDED BY P.L.57-2006, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. **(a)** Whenever a licensee:

~~(1) changes its place of business to another location; or~~

~~(2) adds one (1) or more business locations;~~

(1) closes an existing branch; or

(2) intends to open a new branch or relocate an existing branch;

the licensee shall give written notice to the department. **A licensee shall give written notice to the department of the closing of an existing branch under subdivision (1) not later than thirty (30) days after the date of the closing of the branch.** Not later than thirty (30) days before the **intended** relocation or addition of one (1) or more **business locations branches** under ~~this section; subdivision (2)~~, the licensee **shall provide to the department the written notice of its intention required by this section and** shall request approval in a form prescribed by the director to add or ~~change~~ **relocate** one (1) or more ~~business locations; branches.~~

(b) A person that is licensed under this chapter, or a person that seeks a license or a renewal of a license under this chapter, in accordance with sections 4, 5, and 8 of this chapter, shall notify the department not later than thirty (30) days after any of the following occurs:



- (1) The person has a change in name, address, or principals.
- (2) The person files for bankruptcy or reorganization.
- (4) The person is notified by a state or governmental authority that the person is subject to revocation or suspension proceedings with respect to the person's activities related to the business of pawnbroking or the provision of other similar services.
- (5) An individual described in section 8(a)(2) or 8(a)(3) of this chapter has been convicted of a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

SECTION 18. IC 28-7-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 20. The pawnbroker shall at the time of making a loan or purchase require the signature and right thumbprint of the pledger on all pawn tickets, bills of sale, or ledger cards retained by the licensee. If the person is unable to write, the person shall sign by mark. In such event, the pawnbroker shall record on the signature card such information as will enable the pawnbroker to identify the person in case of the loss of the ticket. If the person does not have a right thumb, any other existing finger may be used. However, a clear print must be obtained. **A pawnbroker that maintains an electronic record of a thumbprint obtained under this section satisfies the record keeping requirement of this section if the electronic record is capable of being reproduced.**

SECTION 19. IC 28-8-4-15, AS AMENDED BY P.L.57-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. (a) As used in this chapter, "payment instrument" means:

- (1) a check;
- (2) a draft;
- (3) a money order;
- (4) a traveler's check;
- (5) a stored value card **or stored value account**, other than a closed system stored value card; or
- (6) an instrument or written order for the transmission or payment of money;

sold or issued to one (1) or more persons, whether such instrument is negotiable.

(b) As used in this chapter, "payment instrument" does not include:

- (1) a credit card voucher;
- (2) a letter of credit;
- (3) an instrument that is redeemable by the issuer in goods or



services; or

(4) a closed system stored value card.

SECTION 20. IC 28-8-4-19.5, AS ADDED BY P.L.57-2006, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 19.5. As used in this chapter, "**stored value account**" or "stored value card" means a **any account**, card, or device that:

(1) may be used by a holder to:

(A) perform financial transactions; or

(B) obtain, purchase, or receive money, goods, or services; in an amount or having a value that does not exceed the dollar value of the **account**, card, **or device**; and

(2) **either:**

(A) **in the case of a card or similar device**, has a magnetic stripe or computer chip that enables dollar values to be electronically added to or deducted from the dollar value of the card; **or**

(B) **in the case of an account**, uses an **account number unique to the holder for the purposes set forth in subsection (1)**.

SECTION 21. IC 28-8-4-27, AS AMENDED BY P.L.176-2019, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 27. (a) An application for licensure under this chapter must be accompanied by a surety bond in accordance with this section.

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

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

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

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

(4) **subject to subsection (c)**, remain in effect during the five (5) years after the **license of the licensee ceases offering money transmission services in Indiana; is surrendered or terminated;**

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

(A) the state;

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

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

(6) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at



least one (1) nationally recognized investment rating service; and (7) have payment conditioned upon the licensee's or any of the licensee's employees' or agents' noncompliance with or violation of this chapter or other applicable federal or state laws or regulations.

(c) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter. **Upon written request from a licensee, the director may, at the discretion of the director, waive or shorten the five (5) year period set forth in subsection (b)(4) during which a surety bond required by this section must remain in effect after the licensee's license is surrendered or terminated.**

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

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

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

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

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

SECTION 22. IC 28-8-5-15, AS AMENDED BY P.L.69-2018, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. (a) To remain in force, a license must be renewed not later than December 31 of each year, beginning with the year following the date of issuance, as set forth in section 14 of this chapter. A licensee may renew a license issued under this chapter by filing a renewal application as prescribed by the director of the department. The department shall prescribe a form for the renewal application. To be accepted for processing, a renewal application must be accompanied by:



- (1) the license renewal fee described in subsection (b); and
- (2) all information and documents requested by the director of the department.

(b) A licensee that seeks to renew a license issued under this chapter shall pay to the department not later than December 31 of each year a fee fixed by the department under IC 28-11-3-5 as a renewal fee. The department may fix a daily late fee under IC 28-11-3-5 for a:

- (1) renewal license application; or
- (2) renewal fee;

that is received by the department after December 31.

(c) A person that is licensed under this chapter, or a person that seeks a license or a renewal of a license under this chapter in accordance with this section and sections 11 and 12 of this chapter, shall notify the department not later than thirty (30) days after any of the following occurs:

- (1) The person has a change in name, address, or principals.**
- (2) The person opens a new branch, closes an existing branch, or relocates an existing branch.**
- (3) The person files for bankruptcy or reorganization.**
- (4) The person is notified by a state or governmental authority that the person is subject to revocation or suspension proceedings with respect to the person's activities related to the business of cashing checks or the provision of other financial services.**
- (5) An individual described in section 12(b)(1) of this chapter has been convicted of a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.**

SECTION 23. IC 28-10-1-1, AS AMENDED BY P.L.176-2019, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. A reference to a federal law or federal regulation in this title is a reference to the law or regulation as in effect December 31, ~~2018~~ **2019**.

SECTION 24. **An emergency is declared for this act.**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1353 — Concur

