

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 220

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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 24-4.4-1-102, AS AMENDED BY P.L.197-2023, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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 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, ~~2022~~: **2023**.

SECTION 2. IC 24-4.5-1-102, AS AMENDED BY P.L.197-2023, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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;

SEA 220



- (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.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2022~~. **2023**.

(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 3. IC 28-7-1-0.5, AS AMENDED BY P.L.129-2020, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 0.5. The following definitions apply throughout

**SEA 220**



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, 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 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~~ credit losses, **minus any adjustment for credit loss allowance for available for sale (AFS) securities.**

SECTION 4. IC 28-7-1-24, AS AMENDED BY P.L.69-2018, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 24. (a) All entrance charges shall, after payment of the organization expenses, be known as reserve income, and shall be added to the regular reserve of the credit union. At the close of the dividend period, there shall be set apart to the regular reserve ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percent (7 1/2%) of the total of outstanding loans, then five percent (5%) of gross income until the regular reserve shall equal ten percent (10%) of the total of outstanding loans. Whenever the regular reserve falls below ten percent (10%) or seven and one-half percent (7 1/2%) of the total of outstanding loans, it shall be replenished by regular contributions to maintain the reserve goals of seven and one-half percent (7 1/2%) or ten percent (10%). The regular reserve shall be held to meet contingencies and shall not be distributed to the members except upon dissolution of the credit union.

SEA 220



(b) A credit union may have an undivided profits account. The undivided profits account may be transferred to the regular reserve.

(c) The department may, by rule, revise the formula prescribed by this section. A revised formula must be prudent and must reasonably be expected to protect the credit unions.

(d) Financial statements of credit unions must provide for full and fair disclosure of all assets, liabilities, and members' equity, including such allowance for ~~loan credit~~ loss accounts necessary to present fairly the financial position, and all income and expenses necessary to present fairly the results of operation for the period concerned.

(e) The maintenance of ~~an the~~ allowance for ~~loan credit~~ losses ~~and investment~~ or other losses does not exempt a credit union from the requirement set forth in subsection (a). The totals of the regular reserve ~~and the allowance for loan credit losses account and the allowance for investment losses~~ shall be combined for determining the percentage of gross income to be transferred to the regular reserve.

(f) Loan ~~and investment~~ losses of a credit union must be charged against the **corresponding loan or investment category of the allowance for loan loss: credit losses**. Adjustments to the allowance for ~~loan credit~~ losses shall be made before the distribution of any dividend so that the allowance for ~~loan credit~~ loss represents the value of loans ~~and investments~~ and anticipated losses resulting from:

- (1) uncollectible loans, **investments**, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;
- (2) assets acquired in liquidation of loans; and
- (3) loans purchased from other credit unions.

(g) Adjustments to the allowance for ~~loan credit~~ losses must be recorded in the ~~expense account "provision for loan losses"~~: **appropriate allowance for credit loss subcategory corresponding to the asset type being reserved against.**

SECTION 5. IC 28-10-1-1, AS AMENDED BY P.L.197-2023, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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, ~~2022~~: **2023**.

SECTION 6. IC 28-10-3 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

### **Chapter 3. Reporting of Reportable Cyber Incidents**

**Sec. 1. As used in this chapter, "corporation" means any:**

- (1) bank;**



- (2) trust company;
- (3) corporate fiduciary;
- (4) savings bank;
- (5) savings association;
- (6) industrial loan and investment company that maintains federal deposit insurance;
- (7) credit union; or
- (8) bank of discount and deposit;

organized or reorganized under the laws of this state.

**Sec. 2. Notwithstanding IC 24-4.9 or any other law, a corporation shall notify the director of the department of a reportable cyber incident or notification incident in accordance with the same procedures required by the corporation's federal supervisory authority or federal insurer. A corporation without a federal supervisory authority or federal insurer shall notify the director of the department of the reportable cyber incident in accordance with the same procedures set forth in 12 CFR 748.1(c) for federally insured credit unions, regardless of whether the corporation is a federally insured credit union.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 220**

