

HOUSE BILL No. 1789

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5-6-106.

Synopsis: State investigations of nonlenders. Provides that a person that is a nonlender is exempt from costs or fees imposed by the department of financial institutions for statutory investigations conducted by the department.

Effective: July 1, 2007.

Ruppel, Bardon, Burton

January 26, 2007, read first time and referred to Committee on Financial Institutions.

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Introduced

First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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HOUSE BILL No. 1789

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

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

1 SECTION 1. IC 24-4.5-6-106, AS AMENDED BY P.L.57-2006,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 106. Examinations – (1) In administering this
4 article and in order to determine whether the provisions of this article
5 are being complied with by persons engaging in acts subject to this
6 article, the department may examine the books and records of persons
7 and may make investigations of persons as may be necessary to
8 determine compliance. The department may administer oaths or
9 affirmations, subpoena witnesses, compel their attendance, adduce
10 evidence, and require the production of any matter which is relevant to
11 the investigation. The department shall determine the sufficiency of the
12 records and whether the person has made the required information
13 reasonably available. The records pertaining to any transaction subject
14 to this article shall be retained for two (2) years after making the final
15 entry relating to the consumer credit transaction, but in the case of a
16 revolving loan account or revolving charge account, the two (2) years



1 is measured from the date of each entry.

2 (2) If the department:

3 (a) investigates; or

4 (b) examines the books and records of;

5 a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and
6 IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of
7 the investigation or examination in accordance with the fee schedule
8 adopted by the department under IC 28-11-3-5 ~~However, the person is~~
9 ~~liable for the costs of an investigation or examination under this~~
10 ~~subsection only~~ to the extent that the costs exceed the amount of the
11 filing fees paid most recently under IC 24-4.5-6-203. **However, a**
12 **person that is a nonlender is exempt from costs or fees under this**
13 **subdivision.**

14 (3) The department shall be given free access to the records
15 wherever located. If the person's records are located outside Indiana,
16 the records shall be made available to the department at a convenient
17 location within Indiana, or the person shall pay the reasonable and
18 necessary expenses for the department or its representative to examine
19 them where they are maintained. The department may designate
20 comparable officials of the state in which the records are located to
21 inspect them on behalf of the department. **However, a person that is**
22 **a nonlender is not responsible for any expenses of the department**
23 **or the department's representative incurred under this subdivision.**

24 (4) Upon failure without lawful excuse to obey a subpoena or to
25 give testimony and upon reasonable notice to all persons affected
26 thereby, the department may apply to (any civil) court for an order
27 compelling compliance.

28 (5) The department shall not make public the name or identity of a
29 person whose acts or conduct the department investigates pursuant to
30 this section or the facts disclosed in the investigation, but this
31 subsection does not apply to disclosures in actions or enforcement
32 proceedings pursuant to this article.

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