

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 328 be amended to read as follows:

1           Page 45, delete lines 14 through 25, begin a new paragraph and  
2           insert:

3           **"(6) If a creditor contracts with an outside vendor to provide a**  
4           **service that would otherwise be undertaken internally by the**  
5           **creditor and be subject to the department's routine examination**  
6           **procedures, the person that provides the service to the creditor**  
7           **shall, at the request of the director, submit to an examination by**  
8           **the department. If the director determines that an examination**  
9           **under this subsection is necessary or desirable, the examination**  
10           **may be made at the expense of the person to be examined. If the**  
11           **person to be examined under this subsection refuses to permit the**  
12           **examination to be made, the director may order any creditor that**  
13           **is licensed under this article and that receives services from the**  
14           **person refusing the examination to:**

15                 **(a) discontinue receiving one (1) or more services from the**  
16                 **person; or**

17                 **(b) otherwise cease conducting business with the person."**

18           Page 86, delete lines 1 through 12, begin a new paragraph and  
19           insert:

20           **"(7) If a creditor contracts with an outside vendor to provide a**  
21           **service that would otherwise be undertaken internally by the**  
22           **creditor and be subject to the department's routine examination**  
23           **procedures, the person that provides the service to the creditor**  
24           **shall, at the request of the director, submit to an examination by**  
25           **the department. If the director determines that an examination**  
26           **under this subsection is necessary or desirable, the examination**  
27           **may be made at the expense of the person to be examined. If the**  
28           **person to be examined under this subsection refuses to permit the**  
29           **examination to be made, the director may order any creditor that**  
30           **is licensed under this article and that receives services from the**  
31           **person refusing the examination to:**

1           **(a) discontinue receiving one (1) or more services from the**  
 2           **person; or**

3           **(b) otherwise cease conducting business with the person."**

4           Page 105, delete lines 24 through 34, begin a new paragraph and  
 5           insert:

6           **"(h) If a lessor contracts with an outside vendor to provide a**  
 7           **service that would otherwise be undertaken internally by the lessor**  
 8           **and be subject to the department's routine examination**  
 9           **procedures, the person that provides the service to the lessor shall,**  
 10           **at the request of the director, submit to an examination by the**  
 11           **department. If the director determines that an examination under**  
 12           **this subsection is necessary or desirable, the examination may be**  
 13           **made at the expense of the person to be examined. If the person to**  
 14           **be examined under this subsection refuses to permit the**  
 15           **examination to be made, the director may order any lessor that**  
 16           **receives services from the person refusing the examination to:**

17           **(1) discontinue receiving one (1) or more services from the**  
 18           **person; or**

19           **(2) otherwise cease conducting business with the person."**

20           Page 107, between lines 8 and 9, begin a new paragraph and insert:

21           "SECTION 96. IC 27-7-3-15.5, AS AMENDED BY P.L.105-2009,  
 22           SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23           UPON PASSAGE]: Sec. 15.5. (a) This section applies to a transaction  
 24           that:

25           (1) is a single family residential:

26           (A) first lien purchase money mortgage transaction; or

27           (B) refinancing transaction; and

28           (2) is closed after December 31, 2009.

29           (b) Not later than September 1, 2009, the department shall establish  
 30           and maintain an electronic system for the collection and storage of the  
 31           following information concerning any of the following persons that  
 32           have participated in or assisted with a transaction to which this section  
 33           applies, or that will participate in or assist with a transaction to which  
 34           this section applies:

35           (1) The name and license number (under IC 23-2-5) of each loan  
 36           brokerage business involved in the transaction.

37           (2) The name and **license or** registration number (~~under~~  
 38           ~~IC 23-2-5~~) of **each any mortgage loan** originator **who is:**

39           **(A) either licensed or registered under state or federal law**  
 40           **as a mortgage loan originator consistent with the Secure**  
 41           **and Fair Enforcement for Mortgage Licensing Act of 2008**  
 42           **(H.R. 3221 Title V); and**

43           **(B) involved in the transaction.**

44           (3) The name and license number (under IC 25-34.1) of each:

45           (A) principal broker; and

46           (B) salesperson or broker-salesperson, if any;

47           involved in the transaction.

- 1 (4) The:
- 2 (A) name of; and
- 3 (B) code assigned by the National Association of Insurance
- 4 Commissioners (NAIC) to;
- 5 each title insurance underwriter involved in the transaction.
- 6 (5) The name and license number (under IC 27-1-15.6) of each
- 7 title insurance agency and agent involved in the transaction as a
- 8 closing agent (as defined in IC 6-1.1-12-43(a)(2)).
- 9 (6) The name and:
- 10 (A) license or certificate number (under IC 25-34.1-3-8) of
- 11 each licensed or certified real estate appraiser; or
- 12 (B) license number (under IC 25-34.1) of each broker;
- 13 who appraises the property that is the subject of the transaction.
- 14 (7) The name of the mortgagee and, if the mortgagee is required
- 15 to be licensed under ~~(A) IC 24-4.4, or (B) IC 24-4.5-3-502~~; the
- 16 license number of the mortgagee.
- 17 (8) In the case of a first lien purchase money mortgage
- 18 transaction, the name of the seller of the property that is the
- 19 subject of the transaction.
- 20 (9) In the case of a first lien purchase money mortgage
- 21 transaction, the name of the buyer of the property that is the
- 22 subject of the transaction.
- 23 (10) The:
- 24 (A) name; and
- 25 (B) license number, certificate number, registration number,
- 26 or other code, as appropriate;
- 27 of any other person that participates in or assists with a
- 28 transaction to which this section applies, as the department may
- 29 prescribe.
- 30 (c) The system established by the department under this section
- 31 must include a form that:
- 32 (1) is uniformly accessible in an electronic format to the closing
- 33 agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and
- 34 (2) allows the closing agent to do the following:
- 35 (A) Input information identifying the property that is the
- 36 subject of the transaction by lot or parcel number, street
- 37 address, or some other means of identification that the
- 38 department determines:
- 39 (i) is sufficient to identify the property; and
- 40 (ii) is determinable by the closing agent.
- 41 (B) Subject to subsection (d) and to the extent determinable,
- 42 input the information described in subsection (b) with respect
- 43 to each person described in subsection (b) that participates in
- 44 or assists with the transaction.
- 45 (C) Respond to the following questions:
- 46 (i) "On what date did you receive the closing instructions
- 47 from the creditor in the transaction?".

- 1 (ii) "On what date did the transaction close?".
- 2 (D) Submit the form electronically to a data base maintained  
3 by the department.
- 4 (d) Not later than the time of the closing, each person described in  
5 subsection (b), other than a person described in subsection (b)(8) or  
6 (b)(9), shall provide to the closing agent in the transaction the person's:  
7 (1) legal name; and  
8 (2) license number, certificate number, registration number, or  
9 NAIC code, as appropriate;
- 10 to allow the closing agent to comply with subsection (c)(2)(B). A  
11 person described in subsection (b)(7) shall provide the information  
12 required by this subsection for any person described in subsection  
13 (b)(6) that appraises the property that is the subject of the transaction  
14 on behalf of the person described in subsection (b)(7). A person  
15 described in subsection (b)(3)(B) who is involved in the transaction  
16 may provide the information required by this subsection for a person  
17 described in subsection (b)(3)(A) that serves as the principal broker for  
18 the person described in subsection (b)(3)(B). In the case of a first lien  
19 purchase money mortgage transaction, the closing agent shall  
20 determine the information described in subsection (b)(8) and (b)(9)  
21 from the HUD-1 settlement statement.
- 22 (e) Except for a person described in subsection (b)(8) or (b)(9), a  
23 person described in subsection (b) who fails to comply with subsection  
24 (d) is subject to a civil penalty of one hundred dollars (\$100) for each  
25 closing with respect to which the person fails to comply with  
26 subsection (d). The penalty:  
27 (1) may be enforced by the state agency that has administrative  
28 jurisdiction over the person in the same manner that the agency  
29 enforces the payment of fees or other penalties payable to the  
30 agency; and  
31 (2) shall be paid into the home ownership education account  
32 established by IC 5-20-1-27.
- 33 (f) Subject to subsection (g), the department shall make the  
34 information stored in the data base described in subsection (c)(2)(D)  
35 accessible to:  
36 (1) each entity described in IC 4-6-12-4; and  
37 (2) the homeowner protection unit established under IC 4-6-12-2.
- 38 (g) The department, a closing agent who submits a form under  
39 subsection (c), each entity described in IC 4-6-12-4, and the  
40 homeowner protection unit established under IC 4-6-12-2 shall exercise  
41 all necessary caution to avoid disclosure of any information:  
42 (1) concerning a person described in subsection (b), including the  
43 person's license, registration, or certificate number; and  
44 (2) contained in the data base described in subsection (c)(2)(D);  
45 except to the extent required or authorized by state or federal law.
- 46 (h) The department may adopt rules under IC 4-22-2 to implement  
47 this section. Rules adopted by the department under this subsection

- 1 may establish procedures for the department to:
- 2 (1) establish;
- 3 (2) collect; and
- 4 (3) change as necessary;
- 5 an administrative fee to cover the department's expenses in establishing
- 6 and maintaining the electronic system required by this section.
- 7 (i) If the department adopts a rule under IC 4-22-2 to establish an
- 8 administrative fee to cover the department's expenses in establishing
- 9 and maintaining the electronic system required by this section, as
- 10 allowed under subsection (h), the department may:
- 11 (1) require the fee to be paid:
- 12 (A) to the closing agent responsible for inputting the
- 13 information and submitting the form described in subsection
- 14 (c)(2); and
- 15 (B) by the borrower in the transaction;
- 16 (2) allow the closing agent described in subdivision (1)(A) to
- 17 retain a part of the fee collected to cover the closing agent's costs
- 18 in inputting the information and submitting the form described in
- 19 subsection (c)(2); and
- 20 (3) require the closing agent to pay the remainder of the fee
- 21 collected to the department for deposit in the title insurance
- 22 enforcement fund established by IC 27-7-3.6-1, for the
- 23 department's use in establishing and maintaining the electronic
- 24 system required by this section."
- 25 Page 122, line 11, strike "the".
- 26 Page 122, line 15, after "liquidation" insert ",".
- 27 Page 154, delete lines 16 through 29, begin a new paragraph and
- 28 insert:
- 29 **"(i) If a person doing business as a debt management company**
- 30 **contracts with an outside vendor to provide a service that would**
- 31 **otherwise be undertaken internally by the person doing business as**
- 32 **a debt management company and be subject to the department's**
- 33 **routine examination procedures, the person that provides the**
- 34 **service to the person doing business as a debt management**
- 35 **company shall, at the request of the director, submit to an**
- 36 **examination by the department. If the director determines that an**
- 37 **examination under this subsection is necessary or desirable, the**
- 38 **examination may be made at the expense of the person to be**
- 39 **examined. If the person to be examined under this subsection**
- 40 **refuses to permit the examination to be made, the director may**
- 41 **order any person doing business as a debt management company**
- 42 **that receives services from the person refusing the examination to:**
- 43 **(1) discontinue receiving one (1) or more services from the**
- 44 **person refusing the examination; or**
- 45 **(2) otherwise cease conducting business with the person**
- 46 **refusing the examination."**
- 47 Page 160, delete lines 27 through 38, begin a new paragraph and

1 insert:

2 **"(c) If an industrial loan and investment company contracts**  
 3 **with an outside vendor to provide a service that would otherwise**  
 4 **be undertaken internally by the industrial loan and investment**  
 5 **company and be subject to the department's routine examination**  
 6 **procedures, the person that provides the service to the industrial**  
 7 **loan and investment company shall, at the request of the director,**  
 8 **submit to an examination by the department. If the director**  
 9 **determines that an examination under this subsection is necessary**  
 10 **or desirable, the examination may be made at the expense of the**  
 11 **person to be examined. If the person to be examined under this**  
 12 **subsection refuses to permit the examination to be made, the**  
 13 **director may order any industrial loan and investment company**  
 14 **that receives services from the person refusing the examination to:**

15 **(1) discontinue receiving one (1) or more services from the**  
 16 **person; or**

17 **(2) otherwise cease conducting business with the person."**

18 Page 176, delete lines 39 through 42, begin a new paragraph and  
 19 insert:

20 **"(b) If a credit union contracts with an outside vendor to**  
 21 **provide a service that would otherwise be undertaken internally by**  
 22 **the credit union and be subject to the department's routine**  
 23 **examination procedures, the person that provides the service to the**  
 24 **credit union shall, at the request of the director, submit to an**  
 25 **examination by the department. If the director determines that an**  
 26 **examination under this subsection is necessary or desirable, the**  
 27 **examination may be made at the expense of the person to be**  
 28 **examined. If the person to be examined under this subsection**  
 29 **refuses to permit the examination to be made, the director may**  
 30 **order any credit union that receives services from the person**  
 31 **refusing the examination to:**

32 **(1) discontinue receiving one (1) or more services from the**  
 33 **person; or**

34 **(2) otherwise cease conducting business with the person."**

35 Page 177, delete lines 1 through 7.

36 Page 199, delete lines 19 through 29, begin a new paragraph and  
 37 insert:

38 **"(f) If a licensee contracts with an outside vendor to provide a**  
 39 **service that would otherwise be undertaken internally by the**  
 40 **licensee and be subject to the department's routine examination**  
 41 **procedures, the person that provides the service to the licensee**  
 42 **shall, at the request of the director, submit to an examination by**  
 43 **the department. If the director determines that an examination**  
 44 **under this subsection is necessary or desirable, the examination**  
 45 **may be made at the expense of the person to be examined. If the**  
 46 **person to be examined under this subsection refuses to permit the**  
 47 **examination to be made, the director may order any licensee that**

1 receives services from the person refusing the examination to:

2 (1) discontinue receiving one (1) or more services from the  
3 person; or

4 (2) otherwise cease conducting business with the person."

5 Page 202, delete line 42, begin a new paragraph and insert:

6 "(g) If a licensee contracts with an outside vendor to provide a  
7 service that would otherwise be undertaken internally by the  
8 licensee and be subject to the department's routine examination  
9 procedures, the person that provides the service to the licensee  
10 shall, at the request of the director, submit to an examination by  
11 the department. If the director determines that an examination  
12 under this subsection is necessary or desirable, the examination  
13 may be made at the expense of the person to be examined. If the  
14 person to be examined under this subsection refuses to permit the  
15 examination to be made, the director may order any licensee that  
16 receives services from the person refusing the examination to:

17 (1) discontinue receiving one (1) or more services from the  
18 person; or

19 (2) otherwise cease conducting business with the person."

20 Page 203, delete lines 1 through 10.

21 Page 206, delete lines 23 through 33, begin a new paragraph and  
22 insert:

23 "(c) If a licensee contracts with an outside vendor to provide a  
24 service that would otherwise be undertaken internally by the  
25 licensee and be subject to the department's routine examination  
26 procedures, the person that provides the service to the licensee  
27 shall, at the request of the director, submit to an examination by  
28 the department. If the director determines that an examination  
29 under this subsection is necessary or desirable, the examination  
30 may be made at the expense of the person to be examined. If the  
31 person to be examined under this subsection refuses to permit the  
32 examination to be made, the director may order any licensee that  
33 receives services from the person refusing the examination to:

34 (1) discontinue receiving one (1) or more services from the  
35 person; or

36 (2) otherwise cease conducting business with the person."

37 Page 209, delete line 42, begin a new paragraph and insert:

38 "(k) If a financial institution contracts with an outside vendor to  
39 provide a service that would otherwise be undertaken internally by  
40 the financial institution and be subject to the department's routine  
41 examination procedures, the person that provides the service to the  
42 financial institution shall, at the request of the director, submit to  
43 an examination by the department. If the director determines that  
44 an examination under this subsection is necessary or desirable, the  
45 examination may be made at the expense of the person to be  
46 examined. If the person to be examined under this subsection  
47 refuses to permit the examination to be made, the director may

1 **order any financial institution that receives services from the**  
2 **person refusing the examination to:**

3 **(1) discontinue receiving one (1) or more services from the**  
4 **person; or**

5 **(2) otherwise cease conducting business with the person."**

6 Page 210, delete lines 1 through 11.

7 Renumber all SECTIONS consecutively.

(Reference is to SB 328 as printed January 27, 2010.)

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Senator PAUL