

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 2010 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1180

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AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-4.4-1-202, AS AMENDED BY P.L.35-2010, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 202. (a) **As used in this section, "balloon payment", with respect to a mortgage transaction, means any payment that:**

- (1) the creditor requires the debtor to make at any time during the term of the mortgage;**
- (2) represents the entire amount of the outstanding balance with respect to the mortgage; and**
- (3) the entire amount of which is due as of a specified date or at the end of a specified period;**

**if the aggregate amount of the minimum periodic payments required under the mortgage would not fully amortize the outstanding balance by the specified date or at the end of the specified period. The term does not include a payment required by a creditor under a due-on-sale clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by a creditor under a provision in the mortgage that permits the creditor to accelerate the debt upon the debtor's default or failure to abide by the material terms of the mortgage.**

**(b) This article does not apply to the following:**

- (1) Extensions of credit to government or governmental agencies**

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or instrumentalities.

(2) A first lien mortgage transaction in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(3) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(4) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage transaction made:

(a) in compliance with the requirements of; and

(b) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

(5) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the federal Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(6) An extension of credit originated by:

(a) a depository institution;

(b) subsidiaries that are:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal banking agency; or

(c) an institution regulated by the Farm Credit Administration.

(7) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.

(8) A first lien mortgage transaction originated by a registered mortgage loan originator, when acting for an entity described in subsection (6). ~~However~~; A privately insured state chartered credit union shall **also** comply with the system of mortgage loan originator registration developed by the Federal Financial Institutions Examinations Council under Section 1507 of the federal **Safe Secure** and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE).

(9) An individual who offers or negotiates terms of a mortgage transaction with or on behalf of an immediate family member of the individual.

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(10) An individual who offers or negotiates terms of a mortgage transaction secured by a dwelling that served as the individual's residence.

(11) Unless the attorney is compensated by:

- (a) a lender;
- (b) a mortgage broker;
- (c) another mortgage loan originator; or
- (d) any agent of the lender, mortgage broker, or other mortgage loan originator described in clauses (a) through (c); a licensed attorney who negotiates the terms of a mortgage transaction on behalf of a client as an ancillary matter to the attorney's representation of the client.

(12) Agencies, instrumentalities, and government owned corporations of the United States, including United States government sponsored enterprises.

**(13) A bona fide nonprofit entity not operating in a commercial context, as determined by the director, if the following criteria are satisfied:**

**(A) Subject to clause (B), the entity originates only one (1) or both of the following types of mortgage transactions:**

- (i) Zero (0) interest first lien mortgage transactions.**
- (ii) Zero (0) interest subordinate lien mortgage transactions.**

**(B) The entity does not require, under the terms of the mortgage or otherwise, balloon payments with respect to the mortgage transactions described in clause (A).**

**(C) The entity is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.**

**(D) The entity's primary purpose is to serve the public by helping low income individuals and families build, repair, and purchase housing.**

**(E) The entity uses only:**

- (i) unpaid volunteers; or**
- (ii) employees whose compensation is not based on the number or size of any mortgage transactions that the employees originate;**

**to originate the mortgage transactions described in clause (A).**

**(F) The entity does not charge loan origination fees in connection with the mortgage transactions described in clause (A).**

SECTION 2. IC 24-4.5-1-202, AS AMENDED BY P.L.35-2010,

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SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 202. (a) As used in this section, "balloon payment", with respect to a mortgage transaction, means any payment that:

- (1) the creditor requires the debtor to make at any time during the term of the mortgage;
- (2) represents the entire amount of the outstanding balance with respect to the mortgage; and
- (3) the entire amount of which is due as of a specified date or at the end of a specified period;

if the aggregate amount of the minimum periodic payments required under the mortgage would not fully amortize the outstanding balance by the specified date or at the end of the specified period. The term does not include a payment required by a creditor under a due-on-sale clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by a creditor under a provision in the mortgage that permits the creditor to accelerate the debt upon the debtor's default or failure to abide by the material terms of the mortgage.

(b) This article does not apply to the following:

- (1) Extensions of credit to government or governmental agencies or instrumentalities.
- (2) The sale of insurance by an insurer, except as otherwise provided in the chapter on insurance (IC 24-4.5-4).
- (3) Transactions under public utility, municipal utility, or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment.
- (4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.
- (5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.
- (6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.
- (7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.
- (8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.
- (9) Loans made, insured, or guaranteed under a program

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authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) Except for IC 24-4.5-3-502.1(2), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

(12) Except for IC 24-4.5-3-502.1(2), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq).

**(13) A bona fide nonprofit entity not operating in a commercial context, as determined by the director, if the following criteria are satisfied:**

**(A) Subject to clause (B), the entity originates only one (1) or both of the following types of mortgage transactions:**

**(i) Zero (0) interest first lien mortgage transactions.**

**(ii) Zero (0) interest subordinate lien mortgage transactions.**

**(B) The entity does not require, under the terms of the mortgage or otherwise, balloon payments with respect to the mortgage transactions described in clause (A).**

**(C) The entity is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.**

**(D) The entity's primary purpose is to serve the public by helping low income individuals and families build, repair, and purchase housing.**

**(E) The entity uses only:**

**(i) unpaid volunteers; or**

**(ii) employees whose compensation is not based on the number or size of any mortgage transactions that the employees originate;**

**to originate the mortgage transactions described in clause**

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**(A).**

**(F) The entity does not charge loan origination fees in connection with the mortgage transactions described in clause (A).**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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

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