

ARTICLE 6. INDUSTRIAL LOAN AND INVESTMENT

Rule 1. General Provisions

750 IAC 6-1-1 Books and records; automated systems

Authority: IC 28-5-1-17

Affected: IC 28-5-1; IC 28-5-1-16

Sec. 1. Books and Records. (A) The books and records of any company conducting business under the Indiana Industrial Loan and Investment Act [IC 28-5-1] shall be so kept that the accounts of its business may be readily separated and distinguished from any other business, and shall adequately reflect the operation of such business.

(B) In lieu of an individual ledger card or ledger sheet, a print-out (automated system) may be substituted and a single print-out shall be maintained for each closed account; a print-out for each current account shall be made readily available upon request by the Department or its authorized representative. Each print-out or ledger sheet must set forth the same items as required on ledger card which are as follows:

- (1) Account number
- (2) Name and address of borrower
- (3) Name and address of each co-maker and/or endorser
- (4) Date of note
- (5) Description of collateral or article taken as security
- (6) Whether the mortgage securing the loan has been filed or recorded and fees charged, if any
- (7) Net amount of cash received or credit given to borrower
- (8) Life insurance cost to borrower
- (9) Other insurance costs to borrower, types of insurance carried and expiration date
- (10) Total principal borrowed (Sum of Items 6, 7, 8 and 9). This shall be the amount to be considered when computing the discount charge
- (11) Discount charge, if instrument taken includes the discount charge
- (12) Total amount of note (Sum of Items 10 and 11)
- (13) Terms of payment including the number and amount of each installment
- (14) Date and amount of all delinquent fees and charges collected
- (15) Date and amount of rebate discount allowed the borrower for prepayment
- (16) Date and amount of each installment collected and the unpaid balance of the note
- (17) Monthly rate of interest, if an interest-bearing instrument is used
- (18) Date interest paid to and amount of interest if an interest-bearing instrument is used
- (19) Number of days upon which interest was collected if an interest-bearing instrument is used

(C) No ledger cards or sheets or print-outs in respect to loans of a company doing business under said Act shall be intermingled with the accounts of any other company. All ledger cards or sheets or print-outs for Industrial Loan and Investment receivables which have been paid in full subsequent to any examination by the Department examiners shall, until the next succeeding examination, and release thereof by the examiners for disposal filing, be kept separate from all other paid-in-full ledger cards or sheets or print-outs.

(D) Each company operating under The Indiana Industrial Loan and Investment Act [IC 28-5-1] shall maintain a record of control indicating the number of accounts and dollar value thereof of all outstanding receivables. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 1; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 994; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 161; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 217; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 112; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 113; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*)

750 IAC 6-1-2 Classification of loans

Authority: IC 28-5-1-17

Affected: IC 28-5-1; IC 28-5-1-6; IC 28-5-1-9

Sec. 2. Classification of Loans. Loans made by companies doing business under The Indiana Industrial Loan and Investment Act [IC 28-5-1] are hereby classified as follows:

CLASS I—Loans in which the charge of the lender for the extension of credit contracted for is added into the principal of the

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obligation evidencing the debt and in which the loan is not secured wholly or partially by any first mortgage on real estate, unless such mortgage is taken by an Investment type company only as additional security for such loan or as security for such loan when it is in default both as provided in Burns 18-3109 [IC 28-5-1-9].

CLASS II—Loans secured by a first mortgage upon real estate, whether wholly or partially, and which first mortgage shall not have been taken by an Investment type company only as additional security for such loan or as security for such loan which is in default both as provided in Burns 18-3109 [IC 28-5-1-9].

CLASS III—All other loans made by companies under the Indiana Industrial Loan and Investment Act [IC 28-5-1]

Provided, however, that none of the foregoing classes shall include any loan made by a company pursuant to subsections (h) (i) (j) of the amended Section 6 [IC 28-5-1-6] of The Indiana Industrial Loan and Investment Act (Acts 1955, Ch. 20, Sec. 2, p. 42.)

(Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 2; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 996; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 162; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 218; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 113; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 114; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939)

750 IAC 6-1-3 Class I loans

Authority: IC 28-5-1-17

Affected: IC 28-5-1-6

Sec. 3. Class I Loans. (A) The maximum discount or charge of the company for the extension of credit contracted which may be added into the principal of the obligation evidencing the debt shall be an amount equal to interest at the rate of one and one-half per cent (1 1/2%) per month, computed on the declining principal balances of the amount loaned as if the borrower paid the debt in the installments and at the times contracted, and as if so much of each payment is applied first to the payment of such interest as will pay the same to the date such payment is contracted to be paid and the remainder of each payment is applied in reduction of the amount loaned.

(B) The written instrument evidencing the debt shall recite among other things the actual amount of money loaned to the borrower.

(C) No obligation evidencing a Class I loan may provide for any interest or other consideration to the lender for the use of the money loaned for the period or periods during which the debt, or parts thereof, is contracted other than the discount permitted by Section A above plus lawful fees actually and necessarily paid public officers for filing, recording, and releasing the instruments securing the loan, and reasonable attorneys' fees and court costs which actually are expended in the enforcement of the terms of the instrument or instruments evidencing or securing the loan.

(D) An obligation evidencing a Class I loan may provide for a delinquent fee in the event the borrower fails to pay the debt or any installment thereof when due; Provided, however, that no delinquent fee or other consideration on account of delinquency may be contracted for in any obligation in respect to a Class I loan or collected or received unless the debt, or part thereof, is more than ten days past due, and in the event the debt, or part thereof, is more than ten days past due delinquent fee shall not exceed five cents per each dollar of said debt which is delinquent without giving effect to any provision of the obligation providing for acceleration of payments otherwise not yet due, provided that no single delinquent fee shall exceed five dollars (\$5.00).

(E) In the event any Class I loan is paid in full at any time before maturity, the lender shall make refund to the borrower. The amount of the refund shall represent at least as great a proportion of the total discount as the sum of the periodical time balances after the date of pre-payment bears to the sum of all the periodical time balances under the schedule of payments in the original loan. Such refund shall be computed on the basis of the number of days actually elapsed, and for the purpose of such computation a month shall be any period of thirty (30) consecutive days, and on the nearest even dollar of the gross discount collected; Provided, however, that if the note evidencing the loan clearly provides therefor, the amount required to be refunded shall not exceed the total amount of the original discount on the entire loan less five dollars (\$5.00); and provided further, however, no refund shall be required if the refund is less than the sum of one dollar (\$1.00). *(Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 3; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 997; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 163; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 218; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 114; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 114; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939) NOTE: Amended by Reg. and General Order No. 4, 1965; 51.*

750 IAC 6-1-4 Class II loans

Authority: IC 28-5-1-17

Affected: IC 28-5-1-9

Sec. 4. Class II Loans. (A) The maximum interest, discount, charge or other consideration for the use of the money loaned in any loan contract evidencing a Class II loan shall be three-fourths of one percent (3/4%) per month of the actual unpaid principal balance or balances computed on the basis of the number of days actually elapsed, and for the purpose of such computation a month shall be any period of thirty (30) consecutive days; and, at the option of the lender, such interest, discount, charge or other consideration for the use of the money loaned may be added into the principal of the obligation evidencing the debt but shall not exceed an amount equal to interest at the rate of three-fourths of one per cent (3/4%) per month, computed on the declining principal balances of the amount loaned as if the borrower paid the debt in the installments and at the times contracted, and as if so much of each payment is applied first to the payment of such interest as will pay the same to the date such payment is contracted to be paid, and the remainder of each payment is applied in reduction of the amount loaned.

(B) The written instrument evidencing the debt in which the charge of the lender for the extension of credit contracted is added into the principal of the obligation shall recite among other things the actual amount of money loaned to the borrower.

(C) No obligation evidencing a Class II loan may provide for any interest, discount, charge, or other consideration to the lender for the use of the money loaned for the period or periods during which the debt, or parts thereof, is contracted other than the charge permitted by paragraphs A and D of this Section plus lawful fees actually and necessarily paid public officers for filing, recording and releasing the instrument securing the loan, reasonable fees actually paid to a person other than the salaried employee of the lender for appraisal of real estate securing the loan, costs of abstract, title search, legal opinion and title insurance, and reasonable attorneys' fees and court costs when actually expended in the enforcement of the terms of the instrument or instruments evidencing or securing the loan.

(D) An obligation evidencing a Class II loan in which the charge of the lender for the extension of credit contracted is added into the principal of the obligation may provide for a delinquent fee in the event the borrower fails to pay the debt or any installment thereof when due; Provided, however, that no delinquent fee or other consideration on account of delinquency may be contracted for in any obligation in respect to a Class II loan or collected or received unless the debt, or part thereof, is more than ten days past due, and in the event the debt, or part thereof, is more than ten days past due such delinquent fee shall not exceed five cents per dollar of said debt which is delinquent without giving effect to any provision of the obligation providing for acceleration of payments otherwise not yet due, provided that no single delinquent fee shall exceed five dollars (\$5.00).

(E) In the event any Class II loan is paid in full at any time before maturity, the lender shall make refund to the borrower. The amount of the refund shall represent at least as great a proportion of the total discount as the sum of the periodical time balances after the date of pre-payment bears to the sum of all the periodical time balances under the schedule of payments in the original loan. Such refund shall be computed on the basis of the number of days actually elapsed, and for the purpose of such computation a month shall be any period of thirty (30) consecutive days, and on the nearest even dollar of the gross discount collected; Provided, however, that if the note evidencing the loan clearly provides therefor, the amount required to be refunded shall not exceed the total amount of the original discount on the entire loan less five dollars (\$5.00); and provided further, however, no refund shall be required if the refund is less than the sum of one dollar (\$1.00). (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 4; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 999; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 165; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 220; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 115; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 115; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*) NOTE: Amended by Reg. and General Order No. 4, 1965; 51.

750 IAC 6-1-5 Class III loans

Authority: IC 28-5-1-17

Affected: IC 28-5-1-6

Sec. 5. Class III Loans. (A) No Class III loan shall contain a charge by the lender for the extension of credit contracted for therein which is added into the principal of the obligation evidencing the debt.

(B) The maximum interest, discount, charge, or other consideration for the use of the money loaned in any loan contract evidencing a Class III loan shall be one and one-half per cent (1 1/2%) per month of the actual unpaid balance or balances computed on the basis of the actual number of days actually elapsed, and for the purpose of such computation a month shall be any period of

thirty (30) consecutive days, plus lawful fees actually and necessarily paid public officers for filing, recording and releasing the instruments securing the loan, and reasonable attorneys' fees and court costs which actually are expended in the enforcement of the terms of the instrument or instruments evidencing or securing the loan. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 5; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 999; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 165; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 220; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 116; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 117; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*)

750 IAC 6-1-6 Loans secured by certificates of investment or indebtedness; interest or discount

Authority: IC 28-5-1-17

Affected: IC 28-5-1-13

Sec. 6. Certificates of Investment or Indebtedness Taken as Security to a Loan. In the event a company takes as security for a loan a certificate of investment or indebtedness issued by the company which is sold to the borrower on credit, or takes in connection with any loan an agreement by the borrower to purchase a certificate of investment or indebtedness by installment payments, the interest or discount on any such loan shall be computed, for the purpose of determining the actual interest or discount charged, as if payment made by the borrower upon the purchase price of such certificate was a payment upon the loan so secured. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 6; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 1000; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 166; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 220; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 117; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 117; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*) NOTE: Amended by Reg. and General Order No. 3, 1960; 54.

750 IAC 6-1-7 Advertising materials; retention; examination (Repealed)

Sec. 7. (*Repealed by Department of Financial Institutions; filed Dec 1, 1992, 5:00 p.m.: 16 IR 1145*)

750 IAC 6-1-8 Unsecured loans; mortgage record; accounting (Repealed)

Sec. 8. (*Repealed by Department of Financial Institutions; filed Dec 1, 1992, 5:00 p.m.: 16 IR 1145*)

750 IAC 6-1-9 Annual report form (Repealed)

Sec. 9. (*Repealed by Department of Financial Institutions; filed Dec 1, 1992, 5:00 p.m.: 16 IR 1145*)

750 IAC 6-1-10 Certificate of authority application form (Repealed)

Sec. 10. (*Repealed by Department of Financial Institutions; filed Dec 1, 1992, 5:00 p.m.: 16 IR 1145*)

750 IAC 6-1-11 Effective date and applicability of rule

Authority: IC 28-5-1-17

Affected: IC 28-5-1-16; IC 28-5-1-17

Sec. 11. Application or Order to Transactions. All sections of this Regulation [750 IAC 6-1] and General Order shall be in effect and shall govern and regulate all transactions from and after the date of the adoption of this revision and from and after its approval and promulgation in the manner provided by law. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 1, Sec 11; filed Dec 15, 1945, 9:40 am: Rules and Regs. 1947, p. 1015; filed Feb 13, 1947, 9:50 am: Rules and Regs. 1948, p. 180; filed Feb 2, 1955, 10:50 am: Rules and Regs. 1956, p. 224; filed Feb 14, 1956, 1:30 pm: Rules and Regs. 1957, p. 121; filed Nov 26, 1969, 11:20 am: Rules and Regs. 1970, p. 121; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*) NOTE: Renumbered Reg 11 by 1970 amendment.

Rule 2. Dormant Service Charges

750 IAC 6-2-1 Dormant certificate of investment; definition; notice

Authority: IC 28-5-1-9

Affected: IC 28-5-1-12

Sec. 1. Definitions. A certificate of investment shall be considered as dormant when the same has not been active for a period of three (3) years or more, as evidenced by the books of the Industrial Loan and Investment Company; and for the purpose of this definition, transactions or entries on the books of the industrial loan and investment company representing service charge debits, interest credits, or memoranda shall not be deemed to change the status of the account from dormant to active; provided, however, no such account shall be deemed to be dormant under this rule until fifteen (15) days after notice has been given by mail to the certificate of investment holder at the last known address that the account is to be declared dormant and to become subject to service charges after fifteen (15) days from the date of the notice. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 2, Sec 1; filed Nov 14, 1949, 2:40 pm: Rules and Regs. 1950, p. 102; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*)

750 IAC 6-2-2 Dormant service charges

Authority: IC 28-5-1-9

Affected: IC 28-5-1-12

Sec. 2. Charges. (a) Dormant service charges may be made by any industrial loan and investment company upon any dormant certificate of investment, the balance of which is less than the sum of one hundred dollars (\$100.00), in any sum not exceeding twenty-five cents (\$.25) per month; where the amount of the balance of the certificate of investment is less than the dormant service charges, such charge shall be the amount of the balance.

(b) Dormant service charges shall not be imposed or charged against dormant certificates of investment with balances of one hundred dollars (\$100.00) or more therein.

(c) All dormant service charges may be imposed and charged monthly, quarterly, semi-annually at the option of the industrial loan and investment company; provided that a charge so imposed and collected shall not be at a greater rate than three dollars (\$3.00) per annum.

(d) A "service charge" of ten cents (\$.10) may be charged for each withdrawal in excess of one (1) withdrawal in any given month.

(e) A "service charge" of fifty cents (\$.50) may be imposed on any certificate of investment account closed within ninety (90) days from date of opening of such account. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 2, Sec 2; filed Nov 14, 1949, 2:40 pm: Rules and Regs. 1950, p. 102; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*)

750 IAC 6-2-3 Accounting of service charges

Authority: IC 28-5-1-9

Affected: IC 28-5-1-12

Sec. 3. Accounting. All revenue received from service charges received under this General Order and Regulation No. 2 [750 IAC 6-2] shall be placed in a separate general ledger account and adequate supporting information on all entries shall be maintained. (*Department of Financial Institutions; Industrial Loan and Investment Companies Reg and General Order No 2, Sec 3; filed Nov 14, 1949, 2:40 pm: Rules and Regs. 1950, p. 103; readopted filed Nov 5, 2001, 2:59 p.m.: 25 IR 939*)

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