



2022 GENERAL ASSEMBLY – DFI LEGISLATION OF INTEREST

The following is a summary of legislation adopted by the 2022 Indiana General Assembly which may be of interest to the Indiana Department of Financial Institutions (“DFI”), its constituencies, staff, and Members. For additional information regarding any bill of particular interest, the complete list of all legislation enacted or considered in the 2022 General Assembly may be found [here](#).

Governor Holcomb signed SEA 383, the financial institutions and consumer credit bill (commonly known as the “DFI Omnibus Bill”), authored by Senator Bassler, and sponsored by Representative Carbaugh, on March 7, 2022. The bill includes updated references to federal and state laws, streamlining and modernization efforts, and various technical changes and clarifications. The below summary is not an exhaustive review of the bill, and interested parties are encouraged to review all provisions of the legislation and the newly enacted statutes in greater detail.

While this publication is intended to provide DFI regulated industries, trade associations, attorneys, and the public with an overview of recently enacted legislation over which the DFI has regulatory and administrative authority, businesses are encouraged to seek legal counsel with questions regarding how the new laws may impact a particular business model or product.

The sections regarding the prohibition of precomputed interest for supervised loans, confidentiality clarifications, and conversion from a federal savings association to a state-chartered savings association were effective on March 7, 2022; all other provisions are effective on July 1, 2022.

Consumer Credit

❖ Rental Purchase Payment Method Modernization, technical correction, and refund requirements. The first portion of the RPAA provision includes a technical correction to the initial payment disclosure. The changes clarify that security deposits, which are initially disclosed and treated separately in the rental purchase agreement due to their refundable nature are not a part of the total of all rental payments necessary to acquire ownership. The second portion of the RPAA provision clarifies the Departments’ regulatory authority to require refunds for overcharges.

- Applies to: Indiana licensed rental purchase companies
- Statutory references: I.C. 24-7-3-3, I.C. 24-7-7-1

- ❖ Uniform Consumer Credit Code amendments and conforming changes across regulated entities. The first change permits parties to determine the average retail value by the use of a third-party valuation service provider that is customarily relied upon in the used motor vehicle commercial marketplace instead of specifically requiring NADA. JD Powers purchased the NADA index and there were questions about whether they would continue with the use of the name NADA. This change ensures that regardless of what the NADA is named, there will be an available index.

The second change clarifies and confirms that supervised loans are also subject to the prohibition against precomputed finance charges.

The third change in this proposal is to clarify that confidentiality protections that protect DFI examinations and confidential information provided by licensees/registrants are applicable and consistent for all license/registration types.

- Applies to: Indiana registered non-lenders, Indiana licensed loan companies, and consumer credit licensees and registrants as applicable
- Statutory References: I.C. 24-4.5-2-202, I.C. 24-4.5-3-201, I.C. 24-4.5-3-202, I.C. 24-4.5-3-508, I.C. 28-1-2-30

- ❖ Money Transmitter Act Amendments. In 2020, there was a legislative change that attempted to reflect that stored value cards are no longer used and that companies now utilize stored value accounts. Accordingly, stored value accounts were added to the definition of payment instruments. However, it is important to note that stored value cards are exempted from the definition of a payment instrument as long as it is a closed system. Stored value accounts were not exempted in the legislative change, however. This resulted in certain transactions falling under the definition of money transmission that should not be considered money transmission. This section reverts to the pre-2020 statutory language and ensures that only transactions that are money transmission, are defined in Indiana's law as money transmission.

- Applies to: Indiana licensed money transmitters
- Statutory References: IC 28-8-4-15

Depository Division

- ❖ Credit Union Bond Coverage Update. The credit union bond statute, I.C. 28-7-1-31, required credit unions to have a bond for all directors, officers, and employees of the credit union but did not require an annual review to ensure adequate coverage. The change requires credit union boards to assess and approve adequate bond coverage on an annual basis. It also restricts the coverage to all directors, officers, and employees who have access to money or bonds or the credit union. The old language did not restrict bond coverage requirements to people of the credit union who have access to money or bonds.
- Applies to: Indiana state-chartered credit unions
 - Statutory References: I.C. 28-7-1-31

- ❖ Permits a Federal Savings Association to Convert to an Indiana Savings Association. Title 28 prescribes how federally chartered financial institutions may convert into a state charter. Legal organization of the financial institution affects which financial institutions may convert and how they can convert. In 1989 Congress passed the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), which consolidated various types of savings institutions federal charters (Savings & Loans, Building & Loan, Guaranty & Loan, etc.) into one charter-type, deemed a federal savings association. Indiana law has not been updated to reflect this change in the federal nomenclature, despite the change being made for state-chartered savings associations in statute. Accordingly, certain types of federal financial institutions could convert to an Indiana state-chartered institution prior to the federal law change, but after the change, due to the way Indiana law is written, may no longer convert. This change amends portions of I.C. 28-15 to permit federal savings associations to convert to Indiana savings associations.
 - Applies to: Federal Savings Associations converting to state-chartered savings associations
 - Statutory References: I.C. 28-15-1-11, I.C. 28-15-14-1, 2, 3, 4, 5, and 6

Other Bills of Interest

- ❖ SEA 371 Replacement of the London Interbank Offered Rate. Adds provision to the Indiana Code concerning financial institutions to provide for the replacement, by operation of law, of the United States Dollar LIBOR as the benchmark index for any contract, security, or instrument, with a recommended benchmark replacement that is based on the secured overnight financing rate (SOFR) if there is no contractual rate replacement language present in the contract.
- ❖ SEA 408 Community Investments by Financial Institutions. Amends the statute authorizing a bank or trust company to make investments in community based economic development to also authorize investments in: (1) any community and economic development entity, community development project, or other public welfare investment; and (2) tax equity finance transactions; subject to the investments being made in compliance with applicable federal regulations and any regulation, rule, policy, or guidance adopted by the DFI. Also authorizes savings banks and savings associations to engage in tax equity finance transactions. These changes mirror the allowances provided to national banks outlined in federal statute.

