



2023 INDIANA GENERAL ASSEMBLY

DEPARTMENT OF FINANCIAL INSTITUTIONS' LEGISLATION OF INTEREST

The following is a summary of legislation adopted by the 2023 Indiana General Assembly, which may interest the Indiana Department of Financial Institutions (“DFI”), its constituencies, staff, and Members. For additional information regarding any bill, the complete list of all legislation enacted or considered by the 2023 Indiana General Assembly may be found [here](#).

Governor Holcomb signed [SEA 452](#), the financial institutions and consumer credit bill (commonly known as the “DFI Omnibus Bill”), authored by Senator Bassler and Senator Gaskill and sponsored by Representative Speedy, into law. The bill includes updated references to federal and state laws, streamlining and modernization efforts, and various technical changes and clarifications. SEA 452 is effective on July 1, 2023.

Governor Holcomb also signed [SEA 458](#), the money transmitter bill (commonly known as the “Model Money Transmission Modernization Act”), authored by Senator Bassler and Senator Gaskill, Co-Authored by Senator Randolph, and Sponsored by Representative Speedy, into law. The bill adopts the Model Money Transmission Modernization Act endorsed by the Conference of State Bank Supervisors. SEA 458 is effective on January 1, 2024.

The below summary is not an exhaustive review of the bills, and interest parties are encouraged to review all provisions of the legislation and the newly enacted statutes in greater detail. While this publication intends 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.

Summary of 452 – DFI Omnibus Bill

1. Consumer Credit - S.A.F.E. Act Amendments. This portion of the bill amends parts of I.C. 24-4.4 and 4.5, which govern mortgages in Indiana, to ensure compliance with the Federal Safe Act. The changes are two-fold. The first change creates a registration process for companies who engage in third-party processing and underwriting to register with the DFI so they may sponsor mortgage loan originators as required by the federal S.A.F.E. Act.

The second change to I.C. 24-4.4 and 4.5 updates a federal savings bank exemption to benefit mortgage companies. Currently, Indiana law permits federal savings banks to sponsor mortgage loan originators as independent agents under specific provisions. The exemption allowed State Farm Insurance agents to issue mortgages for State Farm Federal savings

associations. State Farm no longer has its federal savings association, so the exemption is unnecessary. This provision of the bill extends the State Farm exception to mortgage companies and other insurance agents if the independent agent meets four safeguards which are: (1) has a written agreement of exclusivity with the mortgage company; (2) the mortgage company assumes responsibility for and reasonably supervises the activities of the M.L.O.; (3) the mortgage company maintains a bond for the M.L.O.; and (4) the M.L.O. holds a valid insurance producer license.

The bill also directs the DFI to make all necessary changes to conform 750 IAC 9 (“M.L.O. Rule”) with the requirements in the bill. The DFI will submit a rule to its Members for their consideration to conform the M.L.O. rule to the statutory requirements that will include the creation of a registration system for third-party underwriters and loan processors and extending the State Farm exception to mortgage companies and other insurance agents if the independent agent meets the four safeguards delineated in the bill. The DFI will follow the new rule requirements included in HEA 1623 to adopt the rule.

- Applies to Third-party underwriters and loan processors, Indiana-licensed mortgage loan originators, and Indiana-licensed mortgage companies.
- Statutory references: I.C. 24-4.4-1-202, I.C. 24-4.4-1-301, I.C. 24-4.4-2-401, I.C. 24-4.4-2-402.3, I.C. 24-4.4-2-402.4, I.C. 24-4.4-2-405, I.C. 24-4.5-1-301.5, I.C. 24-4.5-3-502.1, I.C. 24-4.5-3-503.3, I.C. 24-4.5-3-503.4, and I.C. 24-4.5-3-505.

2. Depository - Updates to Credit Union Capital Requirements. SEA 452 included a provision that applies the federal net worth Prompt Corrective Action (“P.C.A.”) framework to all Indiana state-chartered credit unions, including the risk-based net worth reporting requirements for credit unions that qualify under the established guidelines in 12 CFR 702.103.

The regulations are an important step in supporting financial institutions’ safety and soundness and provide regulators and credit unions with clear standards that delineate actions that must be taken if capital requirements fall below certain thresholds. Additionally, it gives the DFI clear statutory authority to coordinate supervisory net worth decisions with insurers. The language in SEA 452 mirrors the N.C.U.A.’s language for P.C.A.; thus, federally insured state-chartered credit unions will not see a change or conflict in requirements that currently apply.

- Applies to State-chartered credit unions
- I.C. 28-7-1-19, 19.1, 19.2, 19.3, and 19.4

3. Miscellaneous - Federal law reference update. The final provision of SEA 452 updates the federal law that is applicable when referenced in state law.

- I.C. 24-4.5-102, I.C. 28-10-1-1

Summary of 458 – Model Money Transmitter Bill

SEA 458 is the Money Transmitter Model Law, endorsed by the Conference of State Bank Supervisors (“C.S.B.S.”), which aims to establish a common baseline for money transmission regulation across the states who adopt the model law. C.S.B.S., together with industry representatives and regulators, developed the model law to decrease the regulatory burden on businesses and increase the regulatory efficiency for state regulators.

The model law establishes a common regulatory floor for money transmission, including stored value, sale of payment instruments, and transmission of fiat currency. As a result, money transmitters will benefit from the law’s standardized and risk-based requirements, and their customers will benefit from strong protections across state lines.

Currently, Indiana’s law regulates money transmission for personal, family, or household purposes. The new model law, which goes into effect on January 1, 2024, incorporates business purpose money transmission; Indiana did not include payroll processing or virtual currency portions of the model law into SEA 458.

SEA 458 adopts the model law’s standardized:

- Definitions applicable to money transmitters, eliminating technical differences between states that make compliance and reporting difficult for companies operating in multiple states.
- Exemptions from money transmitter licensing to promote consistency among states.
- Licensing process, including standardized determination of who controls a licensee and the vetting process.
- Safety and soundness requirements, including net worth, bonding, and permissible investments.

Further, the model law streamlines the licensing process and promotes multistate supervision.

Entities that already have an Indiana money transmission license are encouraged to review SEA 458 to prepare for any upcoming law changes. Entities engaged in business purpose money transmission and have not previously been required to obtain a money transmission license in Indiana are strongly encouraged to review SEA 458 and their business model to analyze whether their business activity will require a license once SEA 458 takes effect.

Additional information regarding the model law may be found [here](#). The Department is working on implementing the changes in SEA 458 and will provide Indiana-specific updates as available.