

INDIANA

Rental Purchase Agreements

IN Code § 24-7-1-0.1 et seq.

Chapter 1. Application

Section 24-7-1-0.1. Application of Article

The addition of this article by P.L.254-1987 does not apply to rental purchase agreements consummated before September 1, 1987.

Section 24-7-1-1. Rental Purchase Agreements Affected; Lessee's Residence

(a) This article applies to a rental purchase agreement if:

- (1) the rental purchase agreement is entered into in Indiana;
- (2) the lessee is a resident of Indiana at the time a lessor offering the rental purchase agreement solicits the rental purchase agreement or a modification of the rental purchase agreement by any mode of communication; or
- (3) the lessee is a resident of Indiana at the time the lessor offering a rental purchase agreement receives either a signed writing evidencing the creation or modification of a rental purchase agreement or a written offer from the lessee to enter into or modify a rental purchase agreement.

(b) For the purposes of this article, the residence of a lessee is the address given by the lessee as the lessee's residence in any writing signed by the lessee in connection with a rental purchase agreement. Until the lessee notifies the lessor of a new or different residence address, the given residence address is presumed to be unchanged.

Section 24-7-1-2. Inapplicable Law

Except as provided in this article, the provisions of:

- (1) the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) and regulations adopted under that act;
- (2) IC 24-4.5;
- (3) IC 26-1-1-201(37);
- (4) IC 26-1-2 concerning the creation of a security interest in property;

(5) IC 26-1-9.1; and

(6) rules adopted under the statutes described in subdivisions (2) through (5);

do not apply to a rental purchase agreement.

Section 24-7-1-3. Waiver of Statutory Protections; Settlement

Except as provided in this article, a lessor or lessee may not waive or agree to forego rights or benefits under this article. However, this article does not prohibit the settlement of a claim under this article.

Section 24-7-1-4. Legal and Equitable Principles Applicable

Except as provided in this article, this article does not limit the application of the principles of law and equity to a rental purchase agreement.

Section 24-7-1-5. Prohibited Agreements; Disguised Consumer Credit Sales

(a) Rental purchase agreements involving:

(1) motor vehicles (as defined in IC 9-13-2-105(a)), including:

(A) component parts (as defined in IC 9-13-2-34);

(B) major component parts (as defined in IC 9-13-2-95); and

(C) any other parts (as defined in IC 9-13-2-122) other than:

(i) wheels;

(ii) rims; and

(iii) tires;

necessary to operate a motor vehicle;

(2) other titled property; or

(3) live domestic animals (as defined in IC 34-30-30-1);

are prohibited under this article.

(b) If the director determines that a transaction described in IC 24-7-2-9(a) involves the application of subterfuge for the purpose of avoiding the application of the Uniform Consumer Credit Code (IC 24-4.5), the director may treat the transaction as a disguised consumer credit sale that is subject to IC 24-4.5. A determination by the director under this subsection:

- (1) must be in writing;
- (2) shall be delivered to all parties in the transaction; and
- (3) is subject to IC 4-21.5-3.

Section 24-7-1-6. Inapplicability to Rental of Musical Instruments Through Programs at Schools

This article does not apply to the rental of a musical instrument through a program offered at an elementary or a secondary school with the approval of the school.

Section 24-7-1-7. Inapplicability to Rental Purchase of a Dwelling

This article does not apply to the rental purchase of a dwelling (as defined in IC 24-4.4-1-301(11)), regardless of whether the dwelling is assessed as real or personal property for property tax purposes.

Chapter 2. Definitions

Section 24-7-2-1. Applicability of Definitions

The definitions in this chapter apply throughout this article.

Section 24-7-2-2. "Department"

"Department" has the meaning set forth in IC 24-4.5-6-103.

Section 24-7-2-2.5. "Consumer Credit Protection Act"

"Consumer Credit Protection Act" has the meaning set forth in IC 24-4.5-1-302.

Section 24-7-2-3. "Consummation"

"Consummation" means the time or date on which the lessee signs a rental purchase agreement.

Section 24-7-2-3.5. "Initial Rental Payment"

"Initial rental payment" means any up-front payment:

- (1) that is made by a lessee to a lessor, or to an agent acting on behalf of a lessor, for property under a rental purchase agreement;
- (2) that includes a rental payment that permits the lessee's use of the property for the initial rental period;
- (3) that may be in an amount that is larger than a regular rental payment due under the rental purchase agreement; and
- (4) that may include one (1) or more of the following:
 - (A) An amount intended to be paid toward the rental or ownership of the property that is the subject of the rental purchase agreement.
 - (B) Additional charges permitted under IC 24-7-5, including any of the following:
 - (i) A nonrefundable processing fee or a delivery charge.
 - (ii) Sales and use taxes.
 - (iii) Official fees.
 - (iv) An optional liability waiver fee for the initial rental period.
 - (v) A security deposit.

Section 24-7-2-4. Repealed

Section 24-7-2-5. "Lessee"

"Lessee" means an individual who rents property under a rental purchase agreement.

Section 24-7-2-6. "Lessor"

"Lessor" means an individual or other person who, in the ordinary course of business:

- (1) leases;
- (2) offers to lease;

- (3) arranges for the leasing of; or
 - (4) accepts assignments of leases of;
- property under a rental purchase agreement.

Section 24-7-2-7. "Period"

"Period" means a day, week, month, or other subdivision of a year.

Section 24-7-2-8. "Property"

"Property" means any property that:

- (1) is not real property or intangible personal property under Indiana law;
- (2) is used or intended for use by an individual primarily for personal, family, or household purposes;
- (3) a lessor holds complete and total ownership of, or ownership rights to; and
- (4) is made available by a lessor to a lessee under a rental purchase agreement.

Section 24-7-2-8.5. "Regular Rental Payment"

"Regular rental payment" means a periodic payment in a fixed amount that permits a lessee's use of property under a rental purchase agreement for a specific time after the initial rental period.

Section 24-7-2-9. "Rental Purchase Agreement"

(a) "Rental purchase agreement" means an agreement between a lessor and a lessee that:

- (1) permits a lessee's use of property for a specified time;
- (2) has an initial period of four (4) months or less;
- (3) is automatically renewable with each rental payment; and
- (4) permits the lessee to become the owner of the property.

(b) The term includes:

- (1) an agreement; or

(2) a transaction;

that the director determines to be a rental purchase agreement, despite efforts by a person to structure the transaction in a manner that the director determines is being used to avoid application of this article.

Chapter 3. Disclosures; Form of Rental Purchase Agreement

Section 24-7-3-1. Written Agreement

The lessor shall reduce a rental purchase agreement to writing.

Section 24-7-3-2. Alternate Disclosure Requirements

A lessor shall disclose to a lessee the information required under section 3 of this chapter. However, if the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended to govern lease-purchase disclosures, the lessor may disclose the information required under the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) instead of the disclosures required under this chapter.

Section 24-7-3-3. Required Disclosures

The lessor shall disclose the following:

(1) A brief description of the property sufficient to identify the property to the lessee and lessor.

(2) The total number, total amount, and timing of all rental payments necessary to acquire ownership of the property, including:

(A) any initial payment, less any:

(i) optional liability waiver fees under IC 24-7-5-11;

(ii) optional products and services offered contemporaneously with the rental purchase agreement under IC 24-7-8-6; and

(iii) security deposit, if required;

(B) all regular rental payments; and

(C) taxes paid to or through the lessor.

(3) A statement that the lessee will not own the property until the lessee has:

(A) made all regular rental payments, as well as any initial rental payment, necessary to acquire ownership of the property; or

(B) exercised an early purchase option.

(4) A statement that charges in addition to the total rental payments necessary to acquire ownership of the leased property may be imposed under the agreement and that the lessee should read the contract for an explanation of these charges.

(5) A brief explanation of all additional charges that may be imposed under the agreement. If a security deposit is required, the explanation must include an explanation of the conditions under which the deposit will be returned to the lessee.

(6) A statement indicating who is responsible for property if it is lost, stolen, damaged, or destroyed.

(7) A statement indicating that the value of lost, stolen, damaged, or destroyed property is its fair market value on the date that it is lost, stolen, damaged, or destroyed.

(8) A statement indicating whether the property is new or used. However, property that is new may be described as used.

(9) A statement that the lessee has an early purchase option to purchase the property at any time during the period that the rental purchase agreement is in effect. The statement must specify the price or the formula or other method for determining the price at which the property may be purchased.

(10) A brief explanation of the lessee's right to reinstate a rental purchase agreement and a description of the amount, or method of determining the amount, of any penalty or other charge applicable under IC 24-7-5 to the reinstatement of a rental purchase agreement.

(11) An itemization of all charges and fees included in any initial rental payment.

Section 24-7-3-4. Form of Disclosures

(a) The disclosures required under section 3 of this chapter shall be stated:

(1) clearly and conspicuously; and

(2) in words and phrases that have a nontechnical meaning.

(b) Except as provided in the rules adopted by the department, the disclosures required under section 3 of this chapter may be included in the rental purchase agreement or in a separate writing that references the rental purchase agreement.

(c) Except as provided in the rules adopted by the department, the disclosures required under section 3 of this chapter may be provided in a different sequence than the sequence set forth in section 3 of this chapter.

(d) Additional information or explanations supplied by the lessor may not have the effect of circumventing, evading, or unduly complicating the information required to be disclosed.

Section 24-7-3-5. Time of Disclosure

The lessor shall disclose all information required in section 3 of this chapter before the rental purchase agreement is consummated.

Section 24-7-3-6. Copy of Written and Signed Agreement to Lessee

The lessor shall obtain the signature of the lessee on the writing containing the terms of the rental purchase agreement and shall furnish the lessee with a copy of the written and signed rental purchase agreement at the time of consummation of the agreement. If there is more than one (1) lessee in a rental purchase agreement, delivery of a copy of the rental purchase agreement to one (1) of the lessees is sufficient to comply with this section.

Section 24-7-3-7. Size of Print

The terms of the rental purchase agreement shall be set forth in not less than 8 point type.

Section 24-7-3-8. Rental Payment Receipts

The lessor shall furnish the lessee, without request by the lessee, a written receipt for each initial rental payment and any subsequent regular rental payment made:

- (1) in cash; or
- (2) by another method of rental payment that does not provide evidence of the rental payment.

Chapter 4. Limitations

Section 24-7-4-1. Lessee's Acquisition of Ownership

At any time after a rental purchase agreement is consummated, the lessee may acquire ownership of the property under the terms specified in the rental purchase agreement.

Section 24-7-4-1.5. Repealed

Section 24-7-4-2. Contractual Abridgement of Rights and Duties

A rental purchase agreement may not contain a provision that conflicts with the rights and duties imposed under this article.

Section 24-7-4-3. Assignment of Earnings as Payment

(a) A lessor may not accept an assignment of earnings from the lessee for payment or as security for payment for a charge arising under a rental purchase agreement.

(b) An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the lessee.

(c) This section does not prohibit a lessee from authorizing deductions from the lessee's earnings if the authorization is revocable and is otherwise permitted by law.

Section 24-7-4-4. Acceptance of Authorization on Behalf of Lessee Waiving Service of Process, Confessing Judgment, or Enforcing Payment

A lessor may not take or accept a power of attorney or other authorization from the lessee, or other person acting on the lessee's behalf, to waive service of process, confess judgment, or enforce payment of money claimed by the lessor in violation of IC 34-54-3 or IC 34-54-4.

Section 24-7-4-5. Required Waiver of Lessee's Defenses, Counterclaims, or Rights of Action in Collecting Payments or Charges

A lessor may not require a lessee to waive any defense, counterclaim, or right of action against:

- (1) the lessor; or
- (2) a person acting on the lessor's behalf, as the lessee's agent;

in collection of rental payments or charges under the rental purchase agreement.

Section 24-7-4-6. Repossession Limited

A lessor may not require a lessee to authorize the lessor or a person acting on the lessor's behalf to unlawfully enter upon the lessee's premises or to commit any breach of the peace in the repossession of the property.

Section 24-7-4-7. Prejudgment Garnishment

A lessor may not require a lessee to authorize a prejudgment garnishment of the lessee's wages.

Section 24-7-4-8. Repealed

Section 24-7-4-9. Assignee of Lessor's Rights; Lessee's Rights Against Assignee; Contractual Abridgement of Lessee's Claims or Defenses

(a) With respect to a rental purchase agreement, an assignee of the rights of the lessor is subject to all claims and defenses of the lessee against the lessor arising from the lease of property or services.

(b) A claim or defense of a lessee specified in subsection (a) may be asserted against the assignee under this section only if the lessee has made a good faith attempt to obtain satisfaction from the lessor with respect to the claim or defense and then only to the extent of the amount owing the assignee with respect to the sale or the lease of the property or services to which the claim or defense arose at the time the assignee has written notice of the claim or defense. Written notice of the claim or defense may be given before the attempts specified in this subsection. For the purposes of this subsection, written notice is any written notification other than notice on a coupon, billing statement, or any other payment medium or material supplied by the assignee.

(c) An agreement may not limit or waive the claims or defenses of a lessee under this section.

Section 24-7-4-10. Notice and Proof of Assignment

(a) The lessee may pay the original lessor until the lessee receives written notification:

(1) that assignment of the rights to rental payments under the rental purchase agreement has occurred; and

(2) of the person to whom rental payments are to be made.

(b) A notification that does not reasonably identify the rights assigned is ineffective.

(c) If requested by the lessee, the assignee must take reasonable steps to furnish proof that the assignment has been made. Unless the assignee furnishes the proof, the lessee may pay the original lessor.

Section 24-7-4-11. Prohibited Acts; Additional Payments; Payments Exceeding Acquisition Cost; Payments to Third Parties

Except as provided in section 1 of this chapter, a lessor shall not require or permit a lessee to:

- (1) make any payment in addition to an initial rental payment and regular rental payments in order to acquire ownership of the property;
- (2) pay rental payments totaling more than the cost to acquire ownership stated in the rental purchase agreement; or
- (3) make any payment to a third party as a condition to entering into a rental purchase agreement.

Section 24-7-4-12. Mandatory Insurance; Early Termination of Agreement or Item Return Penalties; Fees or Charges Imposed on Cosigner

A lessor may not require any of the following:

- (1) The mandatory purchase of insurance by the lessee from the lessor.
- (2) A penalty for early termination of a rental purchase agreement or for the return of an item at any point, except charges authorized under IC 24-7-5.
- (3) A payment by a cosigner of the rental purchase agreement for any fees or charges that may not be imposed on the lessee as part of the rental purchase agreement.

Section 24-7-4-13. Acceptance and Application of Payments; Payments Exceeding Scheduled Amount Due

(a) Except as provided in subsection (b), a lessor may not accept payment from a lessee and hold the amount of the payment in a reserve account for future payments. Any amounts paid by a lessee must be applied:

- (1) as an initial rental payment;
- (2) as a regular rental payment; or
- (3) to an accrued additional charge under IC 24-7-5.

(b) If a lessee makes a payment that exceeds the sum of the scheduled regular rental payment and any permitted additional charges that are due, the lessor may hold the excess funds in a reserve account subject to the following conditions:

- (1) The balance of the lessee's reserve account may not exceed the amount of the next scheduled regular rental payment.
- (2) If the balance in the lessee's reserve account reaches the limit specified in subdivision (1), the lessor shall apply the funds to the lessee's next scheduled regular rental payment.

(c) This section may not be construed to preclude a lessor from accepting and applying:

(1) an initial rental payment; or

(2) multiple regular rental payments;

before the rental payments' scheduled due dates.

Chapter 5. Additional Charges

Section 24-7-5-1. Nonrefundable Processing Fee

A lessor may contract for and receive an initial nonrefundable processing fee not to exceed ten dollars (\$10).

Section 24-7-5-2. Security Deposit Refunds

A lessor may refuse to refund any part of a security deposit provided by a lessee only under the conditions authorized in the rental purchase agreement.

Section 24-7-5-3. Delivery Charges

(a) A lessor may contract for and receive a reasonable delivery charge if the lessor actually delivers the item to the lessee at a place other than the lessor's place of business.

(b) The delivery charge may be assessed in lieu of and not in addition to any initial processing charge imposed under section 1 of this chapter.

Section 24-7-5-4. Rental Payment Pickup Charges

(a) A lessor may contract for and receive a charge for picking up rental or other payments from the lessee if the lessor is required or requested to visit the lessee to pick up a payment at a place other than the lessor's place of business.

(b) A charge assessed under this section may not exceed ten dollars (\$10).

Section 24-7-5-5. Late Charges or Delinquency Fees

(a) The parties to a rental purchase agreement may contract for late charges or delinquency fees as follows:

(1) For agreements with monthly renewal dates, a late charge not exceeding eight dollars (\$8)

may be assessed on any rental payment not made within five (5) days after:

(A) the renewal date for the agreement; or

(B) the return of the property is required under the rental purchase agreement.

(2) For agreements with weekly or biweekly renewal dates, a late charge not exceeding the amount specified in subsection (e) may be assessed on any rental payments not made within two (2) days after:

(A) the renewal date for the agreement; or

(B) the return of the property is required under the agreement.

(b) A late charge on a rental purchase agreement may be assessed only once on any accrued regular rental payment, no matter how long it remains unpaid.

(c) A late charge may be collected at any time after it accrues.

(d) A late charge may not be assessed against a regular rental payment that is timely made, even though an earlier late charge has not been paid in full.

(e) The amount that may be assessed under subsection (a)(2) is as follows:

(1) Three dollars (\$3) for any payment not greater than twenty dollars (\$20).

(2) Five dollars (\$5) for any payment greater than twenty dollars (\$20).

Section 24-7-5-5.5. Returned Payment Fee

A lessor may contract for and charge a returned payment fee not to exceed twenty-five dollars (\$25) for each return by a bank or other depository institution of a dishonored check, electronic funds transfer, negotiable order of withdrawal, or share draft issued by the lessee.

Section 24-7-5-6. Reinstatement Fee

A reinstatement fee imposed under IC 24-7-6-2 may not exceed five dollars (\$5).

Section 24-7-5-7. Sales and Use Taxes

In addition to those charges allowable by this chapter, the lessor may require the lessee to pay any state sales and use taxes levied in connection with a rental purchase agreement.

Section 24-7-5-8. Official Fees

In addition to those charges allowable by this chapter, a lessor may contract for and receive from the lessee an amount equal to all official fees required to be paid under a rental purchase agreement.

Section 24-7-5-10. Liability of Lessee for Replacement Cost of Leased Property; Fair Market Value

(a) If a lessee is liable to a lessor for the replacement cost of property leased under a rental purchase agreement, the lessor may not charge the lessee more than the fair market value for the property.

(b) For purposes of subsection (a), fair market value shall be determined by the lessor in the same manner, and using the same method, that would apply if the lessee were exercising an early purchase option under the rental purchase agreement.

Section 24-7-5-11. Liability Damage Waivers; Fee; Prohibitions and Requirements

(a) In addition to the other charges permitted by this chapter, for a period during which the lessor relieves the lessee of liability under a liability waiver, a lessor and a lessee may contract for a liability waiver fee in the following amounts:

(1) In the case of a rental purchase agreement with weekly or biweekly renewal dates, the liability waiver fee may not exceed the greater of:

(A) ten percent (10%) of the periodic lease payment disclosed under IC 24-7-3-3(2); or

(B) two dollars (\$2).

(2) In the case of a rental purchase agreement with monthly renewal dates, the liability waiver fee may not exceed the greater of:

(A) ten percent (10%) of the periodic lease payment disclosed under IC 24-7-3-3(2); or

(B) five dollars (\$5).

(b) The selling or offering for sale of a liability damage waiver under this section is subject to the following prohibitions and requirements:

(1) A lessor may not sell or offer to sell a liability damage waiver unless all restrictions, conditions, and exclusions are:

(A) printed in the rental purchase agreement, or in a separate agreement, in 8 point type or larger; or

(B) written in ink or typewritten in or on the face of the rental purchase agreement in a blank space provided therefor.

(2) The liability damage waiver may exclude only loss or damage to the property that is the subject of the rental purchase agreement caused by moisture, scratches, mysterious disappearance, vandalism, abandonment of the property, or any other damage intentionally caused by the lessee or that results from the lessee's willful or wanton misconduct.

(3) The liability damage waiver agreement must include a statement of the total charge for the liability damage waiver. The liability damage waiver agreement must display in 8 point boldface type the following:

"NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A LIABILITY DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE PROPERTY. BEFORE DECIDING WHETHER TO PURCHASE THE LIABILITY DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN HOMEOWNERS OR CASUALTY INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL PROPERTY, AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS LIABILITY DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED."

(4) The restrictions, conditions, and exclusions of the liability damage waiver must be disclosed on the agreement or on a separate agreement, sheet, or handout given to the lessee before entering into the rental purchase agreement. The separate contract, sheet, or handout must be signed or otherwise acknowledged by the lessee as being received before entering into the rental purchase agreement.

(5) The lessor shall keep and maintain records as prescribed by the director of the department. The director of the department may inspect the records and determine whether the rates charged under this section are fair and reasonable.

Section 24-7-5-12. Fee for Accepting Rental Payments by Telephone

(a) A lessor may contract for and receive a fee for accepting rental payments by telephone in connection with a rental purchase agreement, if all of the following conditions are met:

(1) The fee is assessed only upon request by the lessee for the underlying payment by telephone service.

(2) The payment by telephone service is not established in advance, under the rental purchase agreement or otherwise, as the expected method for making rental payments under the rental purchase agreement.

(3) The fee does not exceed three dollars (\$3).

(4) The lessee retains the right to make rental payments by payment methods in connection with which no additional fee would be assessed or incurred (including in-person payments and payments by mail) as a result of such alternative payment methods.

(5) The fee is contracted for and disclosed by the lessor in the rental purchase agreement.

(6) The lessor posts a sign at each store location disclosing to existing and prospective lessees:

(A) the amount of the fee;

(B) the lessee's right and option to make rental payments by alternative payment methods and not be assessed or incur an additional fee; and

(C) the alternative payment methods offered by the lessor in connection with which no additional fee would be assessed or incurred.

(7) The lessor's books and records provide an audit trail sufficient to allow the department and its examiners to confirm the lessee's compliance with the conditions listed in subdivisions (1) through (6).

(b) A fee may not be charged under this section unless there is interaction between a live employee or representative of the lessor and the lessee.

Chapter 6. Reinstatement; Garnishment; Unconscionable Agreements

Section 24-7-6-1. Reinstatement of Original Agreement; Conditions

A lessee who fails to make timely rental payments has the right to reinstate the original rental purchase agreement under the original terms of the agreement without losing any rights or options previously acquired under the rental purchase agreement and without additional charges or penalties, except charges or penalties authorized under section 2 of this chapter, if:

(1) subsequent to having failed to make a timely rental payment, the lessee surrenders the property to the lessor not later than seven (7) days after the date the lessor requests the property be surrendered; and

(2) not more than one hundred twenty (120) days elapse after the date the lessee surrenders the property.

Section 24-7-6-2. Charges Allowed as Condition Precedent to Reinstatement

(a) As a condition precedent to reinstatement of the rental purchase agreement, a lessor may charge:

(1) the outstanding balance of any accrued regular rental payments, returned payment fees, and

delinquency charges;

(2) a reinstatement fee not exceeding the amount allowed under IC 24-7-5-6; and

(3) delivery charges not exceeding the amounts allowed under IC 24-7-5-3 if redelivery of the item is necessary.

(b) A reinstatement fee may not be charged under subsection (a)(2) unless the property has been returned to the lessor and is in the lessor's possession.

Section 24-7-6-3. Same or Substituted Leased Item Upon Reinstatement; Revised Disclosures

If reinstatement occurs under sections 1 through 2 of this chapter, the lessor shall provide the lessee with either the same item leased by the lessee before reinstatement or a substitute item of comparable quality and condition. If any information disclosed under IC 24-7-3-2 is inaccurate after the delivery of a substitute item, the lessor shall provide the lessee with a revised set of disclosures. If there is more than one (1) lessee in a rental purchase agreement, delivery of a copy of the revised set of disclosures to one (1) of the lessees is sufficient to comply with this section.

Section 24-7-6-4. Prejudgment Garnishment Proceedings

(a) IC 24-4.5-5-105 and IC 24-4.5-5-106 apply to garnishments related to a rental purchase agreement.

(b) With respect to a debt arising from a rental purchase agreement, regardless of where made, the lessor may not attach unpaid earnings of the debtor by garnishment proceedings or other similar proceedings before the entry of a judgment in an action against the lessee arising from a rental purchase agreement.

Section 24-7-6-5. Unconscionable Agreements

(a) If the court as a matter of law finds the rental purchase agreement or any clause of a rental purchase agreement to have been unconscionable at the time it was made the court may:

(1) refuse to enforce the rental purchase agreement;

(2) enforce the remainder of the rental purchase agreement without the unconscionable clause; or

(3) limit the application of any unconscionable clause to avoid an unconscionable result.

(b) If it is claimed or appears to the court that a rental purchase agreement or any clause of the rental purchase agreement may be unconscionable, the parties shall be afforded a reasonable

opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

(c) For the purposes of this section, a rental payment, charge, or practice expressly permitted by this article is not in itself unconscionable.

Chapter 7. Enforcement; Adjustment in Maximum Fees

Section 24-7-7-1. Enforcement by Department; Civil Penalty

(a) The department shall enforce this article. To carry out this responsibility, the department may do the following:

(1) Receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative.

(2) Issue and enforce administrative orders under IC 4-21.5.

(3) Counsel persons and groups on their rights and duties under this article.

(4) Establish programs for the education of consumers with respect to rental purchase agreement practices and problems.

(5) Make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public.

(6) Adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to carry out this article.

(7) Maintain more than one (1) office within Indiana.

(8) Bring a civil action to restrain a person from violating this article and for other appropriate relief, and exercise the same enforcement powers provided under IC 24-4.5-6-108.

(9) Require a lessor to refund to the lessee any overcharges resulting from the lessor's noncompliance with:

(A) the terms of a rental purchase agreement; or

(B) this article, or any order or rule issued or adopted by the department under this article.

(b) If the department determines, after notice and an opportunity to be heard, that a person has violated this article, or any order or rule issued or adopted by the department under this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

Section 24-7-7-2. Record Keeping Requirements; Lessor's Ownership Rights; Examinations and Investigations

(a) A person subject to this article shall make the books and records of the person reasonably available for inspection by the department or the department's representative.

(b) At a minimum, every lessor shall keep a record of all payments remitted by the lessee on a rental purchase agreement, including the following:

(1) The name of the lessee.

(2) The date of each transaction.

(3) The total amount of each payment.

(4) A breakdown of each payment reflecting:

(A) each type of charge; and

(B) the amount of each type of charge.

(c) A person subject to this article shall maintain books and records that demonstrate to the department that a lessor has acquired, before entering into a rental purchase agreement with a lessee, complete and total ownership rights to the property subject to the rental purchase agreement.

(d) The method of maintaining any data required under this section is at the discretion of the lessor, if hard copies of the required data are readily available. The record keeping system of the lessor shall be made available in Indiana for examination. The director shall determine the sufficiency of the records and whether the lessor has made the required information reasonably available.

(e) In administering this article and in order to determine compliance with this article, the department or the department's representative may examine the books and records of persons subject to the article and may make investigations of persons necessary to determine compliance. For this purpose, the department may administer oaths or affirmations, and, upon the department's own motion or upon request of any party, may subpoena witnesses, compel attendance, compel testimony, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(f) If the person's records are located outside Indiana, but within the continental United States, the person shall, at the person's option, either make them available to the department at a

convenient location in Indiana, or pay the reasonable and necessary expenses for the department or the department's representative to examine them at the place where they are maintained within the continental United States. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(g) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to a court for an order compelling compliance.

(h) The department may not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings under this article.

(i) A lessor shall use United States generally accepted accounting principles and practices in keeping books and records so that the department or the department's representative may determine if the lessor is in compliance with this article or a rule adopted under this article.

(j) A lessor shall keep the lessor's books and records that pertain to a rental purchase agreement for at least two (2) years after the rental purchase agreement has terminated.

(k) To discover violations of this article or to secure information necessary for the enforcement of this article, the department may investigate:

(1) any person subject to this article; and

(2) any person that the department suspects to be operating in violation of this article.

The department has all investigatory and enforcement authority under this article that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

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

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

Section 24-7-7-3. Assurance of Discontinuance of Misconduct

If it is claimed that a person has engaged in conduct subject to an order by the department or by a court under this chapter, the department may accept an assurance in writing that the person will not engage in the conduct in the future. If a person giving an assurance of discontinuance fails to comply with its terms, the assurance is evidence that before the assurance the person engaged in the conduct described in the assurance.

Section 24-7-7-4. Repealed

Chapter 8. Registration of Lessors

Section 24-7-8-1. Notification by Lessor

A lessor shall file notification with the department:

- (1) within thirty (30) days after soliciting or entering into a rental purchase agreement subject to this article; and
- (2) before February 1 in each subsequent year that the lessor solicits or enters into a rental purchase agreement subject to this article.

Section 24-7-8-2. Contents of Notification

The notification required under section 1 of this chapter must include the following:

- (1) The name of the lessor.
- (2) The name in which business is transacted if different from subdivision (1).
- (3) The address of the principal office, which may be outside Indiana if it is in another state in the continental United States.
- (4) The address of all offices or stores, if any, in Indiana at which rental purchase agreements are made.
- (5) If rental purchase agreements are made in a place other than an office or retail store in Indiana, a brief description of the manner in which they are made.

- (6) The address of the designated agent upon whom service of process may be made in Indiana.
- (7) Other information required by the director of the department.

Section 24-7-8-3. Corrective Notification

After a lessor has filed an initial or a subsequent notification under section 1 of this chapter, the lessor shall notify the department not later than thirty (30) days after:

- (1) the lessor has a change in name or address;
- (2) the lessor opens a new office or store, closes an existing office or store, or relocates an existing office or store;
- (3) the lessor files for bankruptcy or reorganization; or
- (4) the lessor is notified that the lessor is subject to revocation or suspension proceedings by a state or governmental authority with respect to the lessor's rental purchase activities.

Section 24-7-8-4. Fees; Costs of Examination by Department; Late Fees

(a) A lessor required to file a notification with the department under section 1 of this chapter shall pay to the department the following fees:

- (1) A fee fixed by the department under IC 28-11-3-5 with the initial notification filed with the department.
- (2) A fee fixed by the department under IC 28-11-3-5 for each place of business operated by the lessor on December 31 of the preceding year with each annual notification subsequently filed with the department.
- (b) In addition to the fee required under subsection (a)(2), if the department examines the books and records of the lessor, the lessor shall pay to the department all reasonably incurred costs of the examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5.
- (c) The department may impose a fee fixed by the department under IC 28-11-3-5 for each day a lessor is late in:
 - (1) submitting the information required under IC 24-7-8-2; or
 - (2) paying a fee under subsection (a) or (b).

Section 24-7-8-5. Directors, Executive Officers, Indiana Store Managers; Criminal

Background Checks

Before appointing or hiring any director, executive officer, or Indiana store manager, a lessor must perform a criminal background check on the candidate and retain, until the department's next examination of the lessor is completed, records of the background check in the lessor's files.

Section 24-7-8-6. Conducting Other Business at Rental Purchase Location; Conditions; Lessor Not Relieved From Applicable Laws

(a) Subject to subsection (b), a lessor required to file notification and pay fees under this chapter may conduct other business, including offering for sale to members of the general public:

(1) property and services that were or may be the subject of a rental purchase agreement under this article; and

(2) property or services that are unrelated or only partially or indirectly related to the lessor's rental purchase agreement business;

at the location where the lessor enters into rental purchase agreements with lessees unless the lessor carries on other business for the purpose of evasion or circumvention of this article.

(b) A lessor may offer for sale to a lessee or prospective lessees the property or services described in subsection (a) at the location where the lessor enters into rental purchase agreements as provided under subsection (a) only if all the following conditions are met:

(1) The lessor:

(A) does not require that the lessee or prospective lessee purchase the property or services as a condition to entering into a rental purchase agreement;

(B) does not require that any purchaser or prospective purchaser of the property or services enter into a rental purchase agreement as a condition to purchasing the property or services; and

(C) clearly discloses in writing to the lessee or prospective lessee before the purchase is completed that:

(i) the purchase of the property or services is not a condition to entering into a rental purchase agreement; and

(ii) entering into a rental purchase agreement is not a condition to purchasing the property or services.

(2) The lessor does not charge the lessee or prospective lessee more for the property or services than the lessor charges members of the general public for the property or services.

(3) The transaction for the purchase of the property or services is conducted separately from any rental purchase agreement, and the cost for purchasing the property or services is not made a part of any rental purchase agreement.

(c) If a lessor offers for sale the property or services described in subsection (a) to lessees or prospective lessees in compliance with the conditions set forth in subsection (b), the business is not considered as being conducted for the purpose of evasion or circumvention of this article.

(d) This section does not relieve a lessor from:

(1) obtaining licenses, permits, authorizations, or consents required by law;

(2) filing or providing notifications as required by law; or

(3) otherwise complying with any other statute, rule, regulation, or ordinance of:

(A) this state;

(B) the United States; or

(C) any governmental unit of this state or the United States;

applicable to a lessor or the lessor's business activities permitted by this section.

Chapter 9. Violations; Civil Damages

Section 24-7-9-1. False or Inaccurate Information in Agreements or Disclosures; Offense

A lessor who knowingly gives false or inaccurate information in a rental purchase agreement or a written disclosure required under this article commits a Class C misdemeanor.

Section 24-7-9-2. Failure to Provide Required Information; Offense

A lessor who knowingly fails to provide information that the lessor is required to disclose to a lessee or provide to the department under this article commits a Class C misdemeanor.

Section 24-7-9-3. Unauthorized or Excessive Charges; Offense

A lessor who knowingly makes a charge under a rental purchase agreement that:

(1) is not authorized under this article; or

(2) exceeds the amount authorized under this article;

commits a Class C misdemeanor.

Section 24-7-9-4. Civil Damages Recoverable by Lessee

(a) If a lessor violates this article and a lessee who is a party to the agreement prevails in the proceeding, the lessee may:

- (1) recover from the lessor committing the violation; or
 - (2) set off in a counterclaim in any action by the lessor committing the violation;
- the amounts described in subsection (b).

(b) The lessee in an action described in subsection (a) may recover all of the following:

- (1) Reasonable attorney's fees, as determined by the court.
- (2) Court costs.
- (3) The greater of:
 - (A) the actual damages incurred by the lessee as a result of the violation;
 - (B) three hundred dollars (\$300); or
 - (C) twenty-five percent (25%) of the total rental payments necessary to acquire ownership of the property leased under the agreement.

Section 24-7-9-5. Defenses; Clerical Error and Correction

It is a defense in a criminal proceeding under sections 1 through 3 of this chapter or a civil proceeding under section 4 of this chapter that the lessor or an assignee of a lessor:

- (1) failed to comply with this article as a result of a bona fide clerical error; and
- (2) corrected the error after the date of execution of the rental purchase agreement.

Section 24-7-9-6. Defense; Compliance With Rules

It is a defense in a criminal proceeding under sections 1 through 3 of this chapter or a civil proceeding under section 4 of this chapter that the lessor complied with a rule adopted by the department.

Section 24-7-9-7. Limitation of Actions

Notwithstanding any other law, an action to recover the amounts described in section 4 of this chapter must be commenced within one (1) year after the action accrues.

Uniform Consumer Credit Code

IN Code § 24-4.5-1-102 (2023)

Chapter 1. General Provisions and Definitions

Section 24-4.5-1-102. Purposes; Rules of Construction; Related Rules or Guidance Adopted by Department; Applicability to Disguised Consumer Credit Transactions; Violations of Other Consumer Credit Laws; Enforcement of Disclosure Requirements for Mortgage Transactions

(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) and to applicable state and federal laws, rules, regulations, policies, and guidance; and

(g) to make uniform the law, including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule or guidance of the department adopted pursuant to this article.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, 2022.

(5) This article applies to a transaction if the director determines that the transaction:

(a) is in substance a disguised consumer credit transaction; or

(b) involves the application of subterfuge for the purpose of avoiding this article.

A determination by the director under this subsection must be in writing and shall be delivered to all parties to the transaction. IC 4-21.5-3 applies to a determination made under this subsection.

(6) The authority of this article remains in effect, whether a licensee, an individual, or a person subject to this article acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(7) A violation of a state or federal law, regulation, or rule applicable to consumer credit transactions is a violation of this article.

(8) The department may enforce penalty provisions set forth in 15 U.S.C. 1640 for violations of disclosure requirements applicable to mortgage transactions.