



**CONSUMER CREDIT DIVISION  
ADVISORY LETTER 2023-01  
JUNE 30, 2023**

**TO:** All Indiana State-Chartered Financial Institutions and all creditors who engage in consumer credit sales under Chapter 2 or consumer loans under Chapter 3 of the IUCCC (collectively, “Creditors”) secured by motor vehicles or other titled assets

**FROM:** Miranda Bray, Deputy Director of Consumer Credit

**RE:** E-lien fees not paid to the BMV are finance charges that are subject to caps as set forth in the IUCCC and are required to be disclosed pursuant to Federal Regulation Z.

---

The Consumer Credit Division of the Indiana Department of Financial Institutions (“DFI”) hereby issues this Advisory regarding a new statewide electronic lien and title system implemented by the Indiana Bureau of Motor Vehicles (the “BMV”) that allows creditors in transactions secured by motor vehicles or other titled assets to record their liens electronically. Beginning July 1, 2023, any creditor placing twelve or more liens per year on titles issued by the BMV is required to use the BMV’s e-lien program.<sup>1</sup>

As part of the e-lien program, creditors must use a BMV-approved third-party vendor (service provider) to process e-liens. The statute does not limit the amount a service provider may charge the creditor and allows the creditor to pass along the cost of this service, plus a \$3.00 fee, to borrowers.<sup>2</sup> It is the DFI’s position that any e-lien fee that is charged by a third-party vendor or by the creditor and passed along by the creditor to the borrower constitutes a finance charge since the fees are imposed as an incident to or as a condition of the extension of credit.<sup>3</sup> These fees are not paid to a government entity, so they do not qualify as permissible additional charges under the Indiana Uniform Consumer Credit Code (“IUCCC”).<sup>4</sup> Likewise, any fee associated with the e-lien program that is not paid to the BMV is not excluded from the finance charge under Section 1026.4(e) of Federal Regulation Z because the fees are not paid to public officials.

Pursuant to the IUCCC, the DFI’s interpretation is that any fee not paid to the BMV issued by a creditor to a borrower as part of the e-lien program is considered to be a prepaid finance charge. Prepaid finance charges are capped for non-depository creditors.<sup>5</sup> Likewise, it is the DFI’s interpretation that any fee not

---

<sup>1</sup> Ind. Code § 9-17-5-6(j)(5)

<sup>2</sup> Ind. Code § 9-17-5-6(g)(6)

<sup>3</sup> Ind. Code § 24-4.5-2-109; Ind. Code § 24-4.5-3-109

<sup>4</sup> Ind. Code § 24-4.5-2-202; Ind. Code § 24-4.5-3-202

<sup>5</sup> Ind. Code § 24-4.5-2-201(11); Ind. Code § 24-4.5-3-201(9)(b); Ind. Code § 24-4.5-3-508(8)

paid to the BMV associated with this e-lien program needs to be disclosed as a finance charge pursuant to Federal Regulation Z.

### **DFI Administration**

For non-depository Creditors, the total permitted prepaid finance charge is limited to the maximum amount reflected in the tiers set out in statute.<sup>6</sup> Any prepaid finance charge imposed above the amount permitted by the tiers is prohibited by law and subject to refund.

For all Creditors, finance charges should be disclosed as such under Federal Regulation Z. Incorrect disclosure could result in an understated annual percentage rate and/or finance charge which may require reimbursement.

### **Requests to DFI for further assistance and guidance**

We are committed to assisting our licensed and regulated businesses with the help you may need in order to accommodate these new law changes. We are available to you as a resource and can assist you by discussing your plan and reviewing any sample documents ahead of the impending law changes discussed above.

Should you have any questions regarding the above, please contact: General Counsel Nicole Buskill, at [legal@dfi.in.gov](mailto:legal@dfi.in.gov) or 317.232.3955.

To request assistance, guidance, ask questions concerning e-lien fee disclosure, or to request a review of your sample documents, please contact Rob Payne, Field Supervisor – Consumer Credit, at: [ropayne@dfi.in.gov](mailto:ropayne@dfi.in.gov) or 317.232.3955.

### **Disclaimer:**

This Advisory Letter applies to all Creditors subject to Chapter 2 and Chapter 3 of the IUCCC and is in effect unless later amended or withdrawn. This advisory is intended to provide a clarification of new statutory requirements and is not a substitute for advice from a Creditor's legal counsel.

Consumer Credit Division 317-232-3955

---

<sup>6</sup> See footnote 5.