

# SENATE BILL No. 329

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.5; IC 28-7-5-28; IC 35-45-7-2.

**Synopsis:** Supervised loans. Provides that a supervised loan is a consumer loan in which the rate of the loan finance charge exceeds 36% per year (current law specifies 25%). Specifies actions that a supervised lender is prohibited from taking. Repeals current limitations on the charges that a supervised lender may contract for and receive. Specifies limits on fees and charges that a supervised lender may impose to replace the repealed limitations. Provides that a lender may not solicit a supervised loan using a negotiable check, facsimile, or other negotiable instrument that may be used by a consumer to activate a new supervised loan. Makes conforming changes.

**Effective:** July 1, 2020.

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January 13, 2020, read first time and referred to Committee on Insurance and Financial Institutions.

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Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 329

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-4.5-3-203.5, AS AMENDED BY P.L.280-2019,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 203.5. Delinquency Charges — (1) With respect  
4 to a consumer loan, refinancing, or consolidation, the parties may  
5 contract for a delinquency charge of not more than:  
6 (a) five dollars (\$5) on any installment or minimum payment due  
7 that is not paid in full within ten (10) days after its scheduled due  
8 date, if installments under the consumer loan, refinancing, or  
9 consolidation are due every fourteen (14) days or less;  
10 (b) twenty-five dollars (\$25) on any installment or minimum  
11 payment due that is not paid in full within ten (10) days after its  
12 scheduled due date, if installments under the consumer loan,  
13 refinancing, or consolidation are due every fifteen (15) days or  
14 more; or  
15 (c) twenty-five dollars (\$25) on any installment or minimum  
16 payment due that is not paid in full within ten (10) days after its  
17 scheduled due date, in the case of a consumer loan, refinancing,



- 1 or consolidation that is payable in a single installment that is due  
 2 at least thirty (30) days after the consumer loan, refinancing, or  
 3 consolidation is made.
- 4 (2) A delinquency charge under this section may be collected only  
 5 once on an installment however long it remains in default. With regard  
 6 to a delinquency charge on consumer loans made under a revolving  
 7 loan account, the delinquency charge may be applied each month that  
 8 the payment is less than the minimum required payment on the  
 9 account. A delinquency charge may be collected any time after it  
 10 accrues. A delinquency charge may not be collected if the installment  
 11 has been deferred and a deferral charge (IC 24-4.5-3-204) has been  
 12 paid or incurred.
- 13 (3) A creditor may not, directly or indirectly, charge or collect a  
 14 delinquency charge on a payment that:
- 15 (a) is paid within ten (10) days after its scheduled due date; and
  - 16 (b) is otherwise a full payment of the payment due for the
- 17 applicable installment period;
- 18 if the only delinquency with respect to the consumer loan, refinancing,  
 19 or consolidation is attributable to a delinquency charge assessed on an  
 20 earlier installment.
- 21 (4) If two (2) or more installments, or parts of two (2) or more  
 22 installments, of a precomputed loan are in default for ten (10) days or  
 23 more, the lender may elect to convert the loan from a precomputed loan  
 24 to a loan in which the finance charge is based on unpaid balances. A  
 25 lender that makes this election shall make a rebate under the provisions  
 26 on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date  
 27 of the first delinquent installment, and thereafter may make a loan  
 28 finance charge as authorized by the provisions on loan finance charges  
 29 for consumer loans (IC 24-4.5-3-201) or supervised loans  
 30 (~~IC 24-4.5-3-508~~): **(IC 24-4.5-3-508.1)**. The amount of the rebate shall  
 31 not be reduced by the amount of any permitted minimum charge  
 32 (IC 24-4.5-3-210). Any deferral charges made on installments due at  
 33 or after the maturity date of the first delinquent installment shall be  
 34 rebated, and no further deferral charges shall be made.
- 35 (5) If the parties provide by contract for a delinquency charge that  
 36 is subject to change, the lender shall disclose in the contract that the  
 37 amount of the delinquency charge is subject to change as allowed by  
 38 IC 24-4.5-1-106.
- 39 SECTION 2. IC 24-4.5-3-205 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 205. Loan Finance  
 41 Charge on Refinancing — With respect to a consumer loan,  
 42 refinancing, or consolidation, the lender may by agreement with the



1 debtor refinance the unpaid balance and may contract for and receive  
 2 a loan finance charge based on the principal resulting from the  
 3 refinancing at a rate not exceeding that permitted by the provisions on  
 4 a loan finance charge for consumer loans (IC 24-4.5-3-201) or the  
 5 provisions on a loan finance charge for supervised loans  
 6 (~~IC 24-4.5-3-508~~), **(IC 24-4.5-3-508.1)**, whichever is appropriate. For  
 7 the purpose of determining the loan finance charge permitted, the  
 8 principal resulting from the refinancing comprises the following:

9 (1) if the transaction was not precomputed, the total of the unpaid  
 10 balance and the accrued charges on the date of the refinancing, or, if  
 11 the transaction was precomputed, the amount which the debtor would  
 12 have been required to pay upon prepayment pursuant to the provisions  
 13 on rebate upon prepayment (IC 24-4.5-3-210) on the date of  
 14 refinancing; and

15 (2) appropriate additional charges (IC 24-4.5-3-202), payment of  
 16 which is deferred.

17 SECTION 3. IC 24-4.5-3-206 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 206. Loan Finance  
 19 Charge on Consolidation — (1) If a debtor owes an unpaid balance to  
 20 a lender with respect to a consumer loan, refinancing, or consolidation,  
 21 and becomes obligated on another consumer loan, refinancing, or  
 22 consolidation with the same lender, the parties may agree to a  
 23 consolidation resulting in a single schedule of payments. If the previous  
 24 consumer loan, refinancing, or consolidation was not precomputed, the  
 25 parties may agree to add the unpaid amount of principal and accrued  
 26 charges on the date of consolidation to the principal with respect to the  
 27 subsequent loan. If the previous consumer loan, refinancing, or  
 28 consolidation was precomputed, the parties may agree to refinance the  
 29 unpaid balance pursuant to the provisions on refinancing  
 30 (**IC 24-4.5-3-205**) and to consolidate the principal resulting from the  
 31 refinancing by adding it to the principal with respect to the subsequent  
 32 loan. In either case the lender may contract for and receive a loan  
 33 finance charge based on the aggregate principal resulting from the  
 34 consolidation at a rate not in excess of that permitted by the provisions  
 35 on loan finance charge for consumer loans (**IC 24-4.5-3-201**) or the  
 36 provisions on loan finance charge for supervised loans (~~24-4.5-3-508~~);  
 37 **(IC 24-4.5-3-508.1)**, whichever is appropriate.

38 (2) The parties may agree to consolidate the unpaid balance of a  
 39 consumer loan with the unpaid balance of a consumer credit sale. The  
 40 parties may agree to refinance the previous unpaid balance pursuant to  
 41 the provisions on refinancing sales (**IC 24-4.5-2-205**) or the provisions  
 42 on refinancing loans (**IC 24-4.5-3-205**), whichever is appropriate, and



1 to consolidate the amount financed resulting from the refinancing or  
 2 the principal resulting from the refinancing by adding it to the amount  
 3 financed or principal with respect to the subsequent sale or loan. The  
 4 aggregate amount resulting from the consolidation shall be deemed  
 5 principal, and the creditor may contract for and receive a loan finance  
 6 charge based on the principal at a rate not in excess of that permitted  
 7 by the provisions on loan finance charge for consumer loans  
 8 (IC 24-4.5-3-201) or the provisions on loan finance charge for  
 9 supervised loans (~~24-4.5-3-508~~); (IC 24-4.5-3-508.1), whichever is  
 10 appropriate.

11 SECTION 4. IC 24-4.5-3-208 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 208. Advances to  
 13 Perform Covenants of Debtor. — (1) If the agreement with respect to  
 14 a consumer loan, refinancing, or consolidation contains covenants by  
 15 the debtor to perform certain duties pertaining to insuring or preserving  
 16 collateral and if the lender pursuant to the agreement pays for  
 17 performance of the duties on behalf of the debtor, the lender may add  
 18 the amounts paid to the debt. Within a reasonable time after advancing  
 19 any sums, he shall state to the debtor in writing the amount of the sums  
 20 advanced, any charges with respect to this amount, and any revised  
 21 payment schedule and, if the duties of the debtor performed by the  
 22 lender pertain to insurance, a brief description of the insurance paid for  
 23 by the lender including the type and amount of coverages. No further  
 24 information need be given.

25 (2) A loan finance charge may be made for sums advanced pursuant  
 26 to subsection (1) at a rate not exceeding the rate stated to the debtor  
 27 pursuant to the provisions on disclosure (Part 3) with respect to the  
 28 loan, refinancing, or consolidation, except that with respect to a  
 29 revolving loan account the amount of the advance may be added to the  
 30 unpaid balance of the debt and the lender may make a loan finance  
 31 charge not exceeding that permitted by the provisions on loan finance  
 32 charge for consumer loans (IC 24-4.5-3-201) or for supervised loans  
 33 (~~24-4.5-3-508~~); (IC 24-4.5-3-508.1), whichever is appropriate.

34 SECTION 5. IC 24-4.5-3-210 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 210. Rebate upon  
 36 Prepayment. — (1) Except as provided in subsection (2), upon  
 37 prepayment in full of the unpaid balance of a precomputed consumer  
 38 loan, refinancing, or consolidation, an amount not less than the  
 39 unearned portion of the loan finance charge calculated according to this  
 40 section shall be rebated to the debtor. If the rebate otherwise required  
 41 is less than one dollar (\$1), no rebate need be made.

42 (2) Upon prepayment in full of a consumer loan, refinancing, or



1 consolidation, other than one (1) under a revolving loan account, if the  
 2 loan finance charge earned is less than any permitted minimum loan  
 3 finance charge (IC 24-4.5-3-201(6) or ~~IC 24-4.5-3-508(7)~~  
 4 **IC 24-4.5-3-508.1(b)**) contracted for, whether or not the consumer  
 5 loan, refinancing, or consolidation is precomputed, the lender may  
 6 collect or retain the minimum loan finance charge, as if earned, not  
 7 exceeding the loan finance charge contracted for.

8 (3) The unearned portion of the loan finance charge is a fraction of  
 9 the loan finance charge of which the numerator is the sum of the  
 10 periodic balances scheduled to follow the computational period in  
 11 which prepayment occurs, and the denominator is the sum of all  
 12 periodic balances under either the loan agreement or, if the balance  
 13 owing resulted from a refinancing (IC 24-4.5-3-205) or a consolidation  
 14 (IC 24-4.5-3-206), under the refinancing agreement or consolidation  
 15 agreement.

16 (4) In this section:

17 (a) "periodic balance" means the amount scheduled to be  
 18 outstanding on the last day of a computational period before  
 19 deducting the payment, if any, scheduled to be made on that day;

20 (b) "computation period" means one (1) month if one-half (1/2)  
 21 or more of the intervals between scheduled payments under the  
 22 agreement is one (1) month or more, and otherwise means one (1)  
 23 week;

24 (c) the "interval" to the due date of the first scheduled installment  
 25 or the final scheduled payment date is measured from the date of  
 26 a loan, refinancing, or consolidation, and includes either the first  
 27 or last day of the interval; and

28 (d) if the interval to the due date of the first scheduled installment  
 29 does not exceed one (1) month by more than fifteen (15) days  
 30 when the computational period is one (1) month, or eleven (11)  
 31 days when the computational period is one (1) week, the interval  
 32 shall be considered as one (1) computational period.

33 (5) This subsection applies only if the schedule of payments is not  
 34 regular.

35 (a) If the computational period is one (1) month and:

36 (i) if the number of days in the interval to the due date of the  
 37 first scheduled installment is less than one (1) month by more  
 38 than five (5) days, or more than one (1) month by more than  
 39 five (5) but not more than fifteen (15) days, the unearned loan  
 40 finance charge shall be increased by an adjustment for each  
 41 day by which the interval is less than one (1) month and, at the  
 42 option of the lender, may be reduced by an adjustment for each



- 1 day by which the interval is more than one (1) month; the  
 2 adjustment for each day shall be one-thirtieth (1/30) of that  
 3 part of the loan finance charge earned in the computational  
 4 period prior to the due date of the first scheduled installment  
 5 assuming that period to be one (1) month; and  
 6 (ii) if the interval to the final scheduled payment date is a  
 7 number of computational periods plus an additional number of  
 8 days less than a full month, the additional number of days shall  
 9 be considered a computational period only if sixteen (16) days  
 10 or more. This subparagraph applies whether or not  
 11 subparagraph (i) applies.
- 12 (b) Notwithstanding paragraph (a), if the computational period is  
 13 one (1) month, the number of days in the interval to the due date  
 14 of the first installment exceeds one (1) month by not more than  
 15 fifteen (15) days, and the schedule of payments is otherwise  
 16 regular, the lender, at the lender's option, may exclude the extra  
 17 days and the charge for the extra days in computing the unearned  
 18 loan finance charge; but if the lender does so and a rebate is  
 19 required before the due date of the first scheduled installment, the  
 20 lender shall compute the earned charge for each elapsed day as  
 21 one-thirtieth (1/30) of the amount the earned charge would have  
 22 been if the first interval had been one (1) month.
- 23 (c) If the computational period is one (1) week and:  
 24 (i) if the number of days in the interval to the due date of the  
 25 first scheduled installment is less than five (5) days, or more  
 26 than nine (9) days, but not more than eleven (11) days, the  
 27 unearned loan finance charge shall be increased by an  
 28 adjustment for each day by which the interval is less than  
 29 seven (7) days and, at the option of the lender, may be reduced  
 30 by an adjustment for each day by which the interval is more  
 31 than seven (7) days; the adjustment for each day shall be  
 32 one-seventh (1/7) of that part of the loan finance charge earned  
 33 in the computational period prior to the due date of the first  
 34 scheduled installment, assuming that period to be one (1)  
 35 week; and  
 36 (ii) if the interval to the final scheduled payment date is a  
 37 number of computational periods plus an additional number of  
 38 days less than a full week, the additional number of days shall  
 39 be considered a computational period only if five (5) days or  
 40 more. This subparagraph applies whether or not subparagraph  
 41 (i) applies.
- 42 (6) If a deferral (IC 24-4.5-3-204) has been agreed to, the unearned



1 portion of the loan finance charge shall be computed without regard to  
 2 the deferral. The amount of deferral charge earned at the date of  
 3 prepayment shall also be calculated. If the deferral charge earned is  
 4 less than the deferral charge paid, the difference shall be added to the  
 5 unearned portion of the loan finance charge. If any part of a deferral  
 6 charge has been earned but has not been paid, that part shall be  
 7 subtracted from the unearned portion of the loan finance charge or shall  
 8 be added to the unpaid balance.

9 (7) This section does not preclude the collection or retention by the  
 10 lender of delinquency charges (IC 24-4.5-3-203, repealed in 1994).

11 (8) If the maturity is accelerated for any reason and judgment is  
 12 obtained, the debtor is entitled to the same rebate as if payment had  
 13 been made on the date judgment is entered.

14 (9) Upon prepayment in full of a consumer loan by the proceeds of  
 15 consumer credit insurance (IC 24-4.5-4-103), the debtor or the debtor's  
 16 estate shall pay the same loan finance charge or receive the same rebate  
 17 as though the debtor had prepaid the agreement on the date the  
 18 proceeds of the insurance are paid to the lender, but no later than ten  
 19 (10) business days after satisfactory proof of loss is furnished to the  
 20 lender. This subsection applies whether or not the loan is precomputed.

21 (10) Upon prepayment in full of a transaction with a term of more  
 22 than sixty-one (61) months, the unearned loan finance charge shall be  
 23 computed by applying the disclosed annual percentage rate that would  
 24 yield the loan finance charge originally contracted for to the unpaid  
 25 balances of the amount financed for the full computational periods  
 26 following the prepayment, as originally scheduled or as deferred.

27 SECTION 6. IC 24-4.5-3-501, AS AMENDED BY P.L.91-2013,  
 28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2020]: Sec. 501. Definitions:

30 (1) "Supervised loan" means a consumer loan in which the rate of  
 31 the loan finance charge exceeds ~~twenty-five percent (25%)~~ **thirty-six**  
 32 **percent (36%)** per year as determined according to the provisions on  
 33 loan finance charge for consumer loans in section 201 of this chapter.

34 (2) "Supervised lender" means a person authorized to make or take  
 35 assignments of supervised loans.

36 SECTION 7. IC 24-4.5-3-501.1 IS ADDED TO THE INDIANA  
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 38 [EFFECTIVE JULY 1, 2020]: **Sec. 501.1. A supervised lender is**  
 39 **prohibited from making or taking assignment of any supervised**  
 40 **loan that contains:**

41 (1) **a security interest in collateral of any kind;**

42 (2) **charges or fees in connection with insurance permitted**





1 under IC 24-4.5-4;

2 (3) a minimum loan term of fewer than six (6) months;

3 (4) a maximum term of greater than twenty-four (24) months;

4 (5) a maximum principal loan amount greater than two  
5 thousand dollars (\$2,000); or

6 (6) a charge or other fee that is not allowed by section 508.1 of  
7 this chapter.

8 SECTION 8. IC 24-4.5-3-508 IS REPEALED [EFFECTIVE JULY  
9 1, 2020]. Sec. 508: Loan Finance Charge for Supervised Loans — (1)  
10 With respect to a supervised loan, including a loan pursuant to a  
11 revolving loan account, a supervised lender may contract for and  
12 receive a loan finance charge not exceeding that permitted by this  
13 section:

14 (2) The loan finance charge, calculated according to the actuarial  
15 method, may not exceed the equivalent of the greater of:

16 (a) the total of:

17 (i) thirty-six percent (36%) per year on that part of the unpaid  
18 balances of the principal which is two thousand dollars  
19 (\$2,000) or less;

20 (ii) twenty-one percent (21%) per year on that part of the  
21 unpaid balances of the principal which is more than two  
22 thousand dollars (\$2,000) but does not exceed four thousand  
23 dollars (\$4,000); and

24 (iii) fifteen percent (15%) per year on that part of the unpaid  
25 balances of the principal which is more than four thousand  
26 dollars (\$4,000); or

27 (b) twenty-five percent (25%) per year on the unpaid balances of  
28 the principal.

29 (3) This section does not limit or restrict the manner of contracting  
30 for the loan finance charge, whether by way of add-on, discount, or  
31 otherwise, so long as the rate of the loan finance charge does not  
32 exceed that permitted by this section. If the loan is precomputed:

33 (a) the loan finance charge may be calculated on the assumption  
34 that all scheduled payments will be made when due; and

35 (b) the effect of prepayment is governed by the provisions on  
36 rebate upon prepayment in section 210 of this chapter.

37 (4) The term of a loan for the purposes of this section commences  
38 on the date the loan is made. Differences in the lengths of months are  
39 disregarded, and a day may be counted as one-thirtieth (1/30) of a  
40 month. Subject to classifications and differentiations the lender may  
41 reasonably establish, a part of a month in excess of fifteen (15) days  
42 may be treated as a full month if periods of fifteen (15) days or less are



1 disregarded and that procedure is not consistently used to obtain a  
2 greater yield than would otherwise be permitted.

3 (5) Subject to classifications and differentiations the lender may  
4 reasonably establish; the lender may make the same loan finance  
5 charge on all principal amounts within a specified range. A loan  
6 finance charge does not violate subsection (2) if:

7 (a) when applied to the median amount within each range; it does  
8 not exceed the maximum permitted in subsection (2); and

9 (b) when applied to the lowest amount within each range; it does  
10 not produce a rate of loan finance charge exceeding the rate  
11 calculated according to paragraph (a) by more than eight percent  
12 (8%) of the rate calculated according to paragraph (a).

13 (6) The amounts of two thousand dollars (\$2,000) and four thousand  
14 dollars (\$4,000) in subsection (2) and thirty dollars (\$30) in subsection  
15 (7) are subject to change pursuant to the provisions on adjustment of  
16 dollar amounts (IC 24-4.5-1-106). However, notwithstanding  
17 IC 24-4.5-1-106(1), for the adjustment of the amount of thirty dollars  
18 (\$30), the Reference Base Index to be used is the Index for October  
19 1992. Notwithstanding IC 24-4.5-1-106(1), for the adjustment of the  
20 amounts of two thousand dollars (\$2,000) and four thousand dollars  
21 (\$4,000), the Reference Base Index to be used is the Index for October  
22 2012.

23 (7) With respect to a supervised loan not made pursuant to a  
24 revolving loan account; the lender may contract for and receive a  
25 minimum loan finance charge of not more than thirty dollars (\$30). The  
26 minimum loan finance charge allowed under this subsection may be  
27 imposed only if the lender does not assess a nonrefundable prepaid  
28 finance charge under subsection (8) and:

29 (a) the debtor prepays in full a consumer loan; refinancing; or  
30 consolidation; regardless of whether the loan; refinancing; or  
31 consolidation is precomputed;

32 (b) the loan; refinancing; or consolidation prepaid by the debtor  
33 is subject to a loan finance charge that:

34 (i) is contracted for by the parties; and

35 (ii) does not exceed the rate prescribed in subsection (2); and

36 (c) the loan finance charge earned at the time of prepayment is  
37 less than the minimum loan finance charge contracted for under  
38 this subsection.

39 (8) Except as provided in subsection (7); in addition to the loan  
40 finance charge provided for in this section and to any other charges and  
41 fees permitted by this chapter; the lender may contract for and receive  
42 a nonrefundable prepaid finance charge of not more than fifty dollars



- 1       (\$50).
- 2       (9) The nonrefundable prepaid finance charge provided for in
- 3       subsection (8) is not subject to refund or rebate.
- 4       (10) Notwithstanding subsections (8) and (9), in the case of a
- 5       supervised loan that is not secured by an interest in land; if a lender
- 6       retains any part of a nonrefundable prepaid finance charge charged on
- 7       a loan that is paid in full by a new loan from the same lender, the
- 8       following apply:
- 9           (a) If the loan is paid in full by the new loan within three (3)
- 10          months after the date of the prior loan, the lender may not charge
- 11          a nonrefundable prepaid finance charge on the new loan, or, in the
- 12          case of a revolving loan, on the increased credit line.
- 13          (b) The lender may not assess more than two (2) nonrefundable
- 14          prepaid finance charges in any twelve (12) month period.
- 15       (11) In the case of a supervised loan that is secured by an interest in
- 16       land, this section does not prohibit a lender from contracting for and
- 17       receiving a fee for preparing deeds, mortgages, reconveyances, and
- 18       similar documents under section 202(1)(d)(ii) of this chapter, in
- 19       addition to the nonrefundable prepaid finance charge provided for in
- 20       subsection (8).
- 21       SECTION 9. IC 24-4.5-3-508.1 IS ADDED TO THE INDIANA
- 22       CODE AS A NEW SECTION TO READ AS FOLLOWS
- 23       [EFFECTIVE JULY 1, 2020]: **Sec. 508.1. (a) With respect to a**
- 24       **supervised loan, a supervised lender may contract for and receive**
- 25       **the following fees and charges in lieu of the loan finance charges**
- 26       **permitted under section 201 of this chapter, and any additional**
- 27       **charges permitted under section 202 of this chapter, by charging**
- 28       **the following amounts:**
- 29           (1) **On any loan with a principal amount of not more than one**
- 30           **hundred fifty dollars (\$150), an acquisition charge for making**
- 31           **the loan may be added at the ratio of five dollars and fifty**
- 32           **cents (\$5.50) for each twenty-five dollars (\$25) of principal.**
- 33           (2) **On any loan with a principal amount of at least one**
- 34           **hundred fifty dollars and one cent (\$150.01), but not more**
- 35           **than two hundred dollars (\$200), an acquisition charge for**
- 36           **making the loan that may not exceed one-tenth (1/10) of the**
- 37           **amount of the principal is allowed. In addition, an installment**
- 38           **account handling charge of not more than fifteen dollars (\$15)**
- 39           **per month is allowed.**
- 40           (3) **On any loan with a principal amount of at least two**
- 41           **hundred dollars and one cent (\$200.01), but not more than**
- 42           **three hundred fifty dollars (\$350), an acquisition charge for**



1 making the loan that may not exceed one-tenth (1/10) of the  
2 amount of the principal is allowed. In addition, an installment  
3 account handling charge of not more than seventeen dollars  
4 and fifty cents (\$17.50) per month is allowed.

5 (4) On any loan with a principal amount of at least three  
6 hundred fifty dollars and one cent (\$350.01), but not more  
7 than five hundred dollars (\$500), an acquisition charge for  
8 making the loan that may not exceed one-tenth (1/10) of the  
9 amount of the principal is allowed. In addition, an installment  
10 account handling charge of not more than twenty dollars  
11 (\$20) per month is allowed.

12 (5) On any loan with a principal amount of at least five  
13 hundred dollars and one cent (\$500.01), but not more than  
14 seven hundred fifty dollars (\$750), an acquisition charge for  
15 making the loan that may not exceed one-tenth (1/10) of the  
16 amount of the principal is allowed. In addition, an installment  
17 account handling charge of not more than twenty-five dollars  
18 (\$25) per month is allowed.

19 (6) On any loan with a principal amount of at least seven  
20 hundred fifty dollars and one cent (\$750.01), but not more  
21 than two thousand dollars (\$2,000), an acquisition charge for  
22 making the loan that may not exceed one-tenth (1/10) of the  
23 amount of the principal is allowed. In addition, an installment  
24 account handling charge of not more than thirty dollars (\$30)  
25 per month is allowed.

26 (7) A supervised lender may charge a delinquency fee of not  
27 more than twenty-five dollars (\$25) on any installment that is  
28 not paid in full within ten (10) days after its scheduled due  
29 date. A delinquency charge imposed under this subsection  
30 may be collected only once on an installment however long it  
31 remains in default. A delinquency charge may be collected  
32 any time after it accrues. A delinquency charge may not be  
33 collected if the installment has been deferred and a deferral  
34 charge has been paid or incurred. A creditor may not, directly  
35 or indirectly, charge or collect a delinquency charge on a  
36 payment that is:

37 (A) paid within ten (10) days after its scheduled due date;  
38 and

39 (B) otherwise a full payment of the payment due for the  
40 applicable installment period;

41 if the only delinquency with respect to the consumer loan,  
42 refinancing, or consolidation is attributable to a delinquency



1 charge assessed on an earlier installment.

2 (8) A supervised lender may charge a fee of not more than  
3 twenty-five dollars (\$25) for each returned payment by a bank  
4 or other depository institution of a dishonored check,  
5 electronic funds transfer, negotiable order of withdrawal, or  
6 share draft issued by the debtor.

7 (9) A supervised lender may charge a deferral fee if the  
8 parties before or after default agree in writing to a deferral of  
9 all or part of one (1) or more unpaid installments, and the  
10 lender may make and collect a charge not exceeding the rate  
11 previously stated to the debtor pursuant to the provisions on  
12 disclosure (Part 3) applied to the amount or amounts deferred  
13 for the period of deferral calculated without regard to  
14 difference in the lengths of months, but proportionally for a  
15 part of a month, counting each day as one-thirtieth (1/30) of  
16 a month. A deferral charge may be collected at the time it is  
17 assessed or at any time thereafter. The parties may agree in  
18 writing at the time of a precomputed supervised loan,  
19 refinancing, or consolidation that if an installment is not paid  
20 within ten (10) days after its due date, the lender may  
21 unilaterally grant a deferral and make charges as provided in  
22 this subsection. No deferral charge may be made for a period  
23 after the date that the lender elects to accelerate the maturity  
24 of the agreement. A delinquency charge made by the lender  
25 on an installment may not be retained if a deferral charge is  
26 made pursuant to this section with respect to the period of  
27 delinquency.

28 (10) A supervised lender may charge a fee of not more than  
29 ten dollars (\$10) for an optional expedited payment service,  
30 subject to the following:

31 (A) The charge may be assessed only upon request by the  
32 consumer to use the expedited payment service.

33 (B) The amount of the charge must be disclosed to the  
34 consumer at the time of the consumer's request to use the  
35 expedited payment service.

36 (C) The consumer must be informed that the consumer  
37 retains the option to make a payment by traditional means.

38 (D) The charge may not be established in advance, through  
39 any agreement with the consumer, as the expected method  
40 of payment.

41 (b) Except as otherwise provided, an acquisition charge  
42 authorized by this section is considered earned at the time a loan



1 is made and is not subject to refund. If a loan made under this  
 2 section is prepaid in full, refinanced, or consolidated within the  
 3 first sixty (60) days, the acquisition charge authorized by this  
 4 section:

- 5 (1) is not fully earned at the time the loan is made; and  
 6 (2) must be refunded pro rata at the rate of one-sixtieth (1/60)  
 7 of the acquisition charge for each day from the date of the  
 8 prepayment, refinancing, or consolidation to the sixtieth day  
 9 of the loan.

10 On the prepayment of a loan made under this section not  
 11 refinanced or consolidated, any unearned installment account  
 12 handling charge must be refunded pro rata at the rate of  
 13 one-thirtieth (1/30) based on the date of prepayment.

14 (c) Loans made under this section may be refinanced or  
 15 consolidated according to the provisions of this section,  
 16 notwithstanding anything in this chapter to the contrary. When a  
 17 loan made under this section is refinanced or consolidated,  
 18 installment account handling charges on the loans being refinanced  
 19 or consolidated must be refunded as of the date of refinancing or  
 20 consolidation. For the purpose of determining the amount of  
 21 acquisition and installment account handling charges permitted in  
 22 relation to the refinancing or the consolidation of loans made  
 23 under this section, the principal resulting from the refinancing or  
 24 consolidation is the total of the unpaid balances of the principal of  
 25 the loans being refinanced or consolidated, plus any new money  
 26 advanced, and any delinquency or deferral charges if due and  
 27 unpaid, less any unearned acquisition and installment account  
 28 handling charges imposed in connection with loans being  
 29 refinanced or consolidated.

30 (d) Fees and charges made in compliance with this section are  
 31 exempt from IC 35-45-7.

32 (e) Notwithstanding any other provision of this section, a  
 33 supervised loan may not contain fees and charges that exceed  
 34 ninety-nine percent (99%) per year as determined according to the  
 35 provisions on loan finance charge for consumer loans in section 201  
 36 of this chapter.

37 SECTION 10. IC 24-4.5-3-509 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 509. Use of Multiple  
 39 Agreements. — With respect to a consumer loan, no lender may permit  
 40 any person, or husband and wife, to become obligated in any way under  
 41 more than one loan agreement with the lender or with a person related  
 42 to the lender, with intent to obtain a higher rate of loan finance fee or



1 charge than would otherwise be permitted by the provisions on loan  
 2 ~~finance charge fees and charges~~ for supervised loans  
 3 ~~(IC 24-4.5-3-508)~~ **(section 508.1 of this chapter)** or to avoid  
 4 disclosure of an annual percentage rate pursuant to the provisions on  
 5 disclosure (Part 3). The excess amount of ~~loan finance any fee or~~  
 6 charge provided for in agreements in violation of this section is an  
 7 excess charge for the purposes of the provisions on effect of violations  
 8 on rights of parties (IC 24-4.5-5-202) and the provisions on civil  
 9 actions by the department (IC 24-4.5-6-113).

10 SECTION 11. IC 24-4.5-3-510 IS REPEALED [EFFECTIVE JULY  
 11 1, 2020]. ~~Sec. 510: Restrictions on Interest in Land as Security = (1)~~  
 12 ~~With respect to a supervised loan in which the principal is four~~  
 13 ~~thousand dollars (\$4,000) or less, a lender may not contract for an~~  
 14 ~~interest in land as security. A security interest taken in violation of this~~  
 15 ~~section is void.~~

16 (2) ~~The amount of four thousand dollars (\$4,000) in subsection (1)~~  
 17 ~~is subject to change pursuant to the provisions on adjustment of dollar~~  
 18 ~~amounts (IC 24-4.5-1-106). However, notwithstanding~~  
 19 ~~IC 24-4.5-1-106(1), the Reference Base Index to be used under this~~  
 20 ~~subsection is the Index for October 2012.~~

21 SECTION 12. IC 24-4.5-3-511 IS REPEALED [EFFECTIVE JULY  
 22 1, 2020]. ~~Sec. 511: Regular Schedule of Payments; Maximum Loan~~  
 23 ~~Term = (1) Supervised loans not made pursuant to a revolving loan~~  
 24 ~~account and in which the principal is four thousand dollars (\$4,000) or~~  
 25 ~~less are payable in a single instalment or shall be scheduled to be~~  
 26 ~~payable in substantially equal instalments that are payable at equal~~  
 27 ~~periodic intervals, except to the extent that the schedule of payments~~  
 28 ~~is adjusted to the seasonal or irregular income of the debtor, and:~~

29 (a) ~~over a period of not more than thirty-seven (37) months if the~~  
 30 ~~principal is more than three hundred dollars (\$300); or~~

31 (b) ~~over a period of not more than twenty-five (25) months if the~~  
 32 ~~principal is three hundred dollars (\$300) or less.~~

33 (2) ~~The amounts of three hundred dollars (\$300) and four thousand~~  
 34 ~~dollars (\$4,000) in subsection (1) are subject to change pursuant to the~~  
 35 ~~provisions on adjustment of dollar amounts (IC 24-4.5-1-106).~~  
 36 ~~However, notwithstanding IC 24-4.5-1-106(1), the Reference Base~~  
 37 ~~Index to be used with respect to the amount of:~~

38 (a) ~~three hundred dollars (\$300) is the Index for October 1992;~~

39 ~~and~~

40 (b) ~~four thousand dollars (\$4,000) is the Index for October 2012.~~

41 SECTION 13. IC 24-4.5-3-606 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 606. (1) In addition to



1 any disclosures otherwise provided by law, a lender soliciting loans  
 2 using a negotiable check, facsimile, or other negotiable instrument that  
 3 may be used by a consumer to activate a new loan shall disclose the  
 4 following:

5 "This is a solicitation for a loan. Read the enclosed disclosures  
 6 before signing this agreement."

7 This notice shall be printed in at least ten point type and shall appear  
 8 conspicuously on the offer.

9 (2) If a negotiable check, a facsimile, or another instrument is stolen  
 10 or incorrectly received by someone other than the intended payee and  
 11 the instrument is fraudulently cashed, the consumer who was the  
 12 intended payee is not liable for the loan obligation.

13 **(3) Notwithstanding any other provision of this article, a lender**  
 14 **may not solicit a supervised loan using a negotiable check,**  
 15 **facsimile, or other negotiable instrument that may be used by a**  
 16 **consumer to activate a new supervised loan.**

17 SECTION 14. IC 24-4.5-4-107, AS AMENDED BY P.L.141-2005,  
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2020]: Sec. 107. Maximum Charge by Creditor for Insurance  
 20 - (1) Except as provided in subsection (2), if a creditor contracts for or  
 21 receives a separate charge for insurance, the amount charged to the  
 22 debtor for the insurance may not exceed the premium to be charged by  
 23 the insurer, as computed at the time the charge to the debtor is  
 24 determined, conforming to any rate filings required by law and made  
 25 by the insurer with the Insurance Commissioner.

26 (2) A creditor who provides consumer credit insurance in relation  
 27 to a revolving charge account (IC 24-4.5-2-108) or revolving loan  
 28 account (IC 24-4.5-3-108) may calculate the charge to the debtor in  
 29 each billing cycle by applying the current premium rate to:

30 (a) the average daily unpaid balance of the debt in the cycle;

31 (b) the unpaid balance of the debt or a median amount within a  
 32 specified range of unpaid balances of debt on approximately the same  
 33 day of the cycle. The day of the cycle need not be the day used in  
 34 calculating the credit service charge (IC 24-4.5-2-207) or loan finance  
 35 charge (IC 24-4.5-3-201 and ~~IC 24-4.5-3-508~~; **IC 24-4.5-3-508.1**), but  
 36 the specified range shall be the range used for that purpose;

37 (c) the unpaid balances of principal calculated according to the  
 38 actuarial method; or

39 (d) the amount of the insurance benefit for the cycle.

40 SECTION 15. IC 24-4.5-5-202 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 202. Effect of  
 42 Violations on Rights of Parties — (1) If a creditor has violated the





1 provision of this Article applying to limitations on the schedule of  
 2 ~~payments or the loan term for supervised loans (IC 24-4.5-3-511);~~  
 3 **(IC 24-4.5-3-501.1)**, the debtor is not obligated to pay ~~the loan finance~~  
 4 ~~charge, any fees or charges in connection with the loan~~ and has a  
 5 right to recover from the person violating this Article or from an  
 6 assignee of that person's rights who undertakes direct collection of  
 7 payments or enforcement of rights arising from the debt a penalty in an  
 8 amount determined by the court not in excess of three times the amount  
 9 of the loan finance charge. No action pursuant to this subsection may  
 10 be brought more than one (1) year after the due date of the last  
 11 scheduled payment of the agreement with respect to which the  
 12 violation occurred.

13 (2) If a creditor has violated the provisions of this Article applying  
 14 to authority to make consumer loans (IC 24-4.5-3-502), the loan is void  
 15 and the debtor is not obligated to pay either the principal or loan  
 16 finance charge. If the debtor has paid any part of the principal or of the  
 17 loan finance charge, the debtor has a right to recover the payment from  
 18 the person violating this Article or from an assignee of that person's  
 19 rights who undertakes direct collection of payments or enforcement of  
 20 rights arising from the debt. With respect to violations arising from  
 21 loans made pursuant to revolving loan accounts, no action pursuant to  
 22 this subsection may be brought more than two (2) years after the  
 23 violation occurred. With respect to violations arising from other loans,  
 24 no action pursuant to this subsection may be brought more than one (1)  
 25 year after the due date of the last scheduled payment of the agreement  
 26 pursuant to which the charge was paid.

27 (3) A debtor is not obligated to pay a charge in excess of that  
 28 allowed by this Article, and if the debtor has paid an excess charge the  
 29 debtor has a right to a refund. A refund may be made by reducing the  
 30 debtor's obligation by the amount of the excess charge. If the debtor has  
 31 paid an amount in excess of the lawful obligation under the agreement,  
 32 the debtor may recover the excess amount from the person who made  
 33 the excess charge or from an assignee of that person's rights who  
 34 undertakes direct collection of payments from or enforcement of rights  
 35 against debtors arising from the debt.

36 (4) If a debtor is entitled to a refund and a person liable to the debtor  
 37 refuses to make a refund within a reasonable time after demand, the  
 38 debtor may recover from that person a penalty in an amount determined  
 39 by a court not exceeding the greater of either the amount of the credit  
 40 service or loan finance charge or ten (10) times the amount of the  
 41 excess charge. If the creditor has made an excess charge in deliberate  
 42 violation of or in reckless disregard for this Article, the penalty may be



1 recovered even though the creditor has refunded the excess charge. No  
 2 penalty pursuant to this subsection may be recovered if a court has  
 3 ordered a similar penalty assessed against the same person in a civil  
 4 action by the department (IC 24-4.5-6-113). With respect to excess  
 5 charges arising from sales made pursuant to revolving charge accounts  
 6 or from loans made pursuant to revolving loan accounts, no action  
 7 pursuant to this subsection may be brought more than two (2) years  
 8 after the time the excess charge was made. With respect to excess  
 9 charges arising from other consumer credit sales or consumer loans, no  
 10 action pursuant to this subsection may be brought more than one (1)  
 11 year after the due date of the last scheduled payment of the agreement  
 12 pursuant to which the charge was made.

13 (5) Except as otherwise provided, no violation of this Article  
 14 impairs rights on a debt.

15 (6) If an employer discharges an employee in violation of the  
 16 provisions prohibiting discharge (IC 24-4.5-5-106), the employee may  
 17 within six (6) months bring a civil action for recovery of wages lost as  
 18 a result of the violation and for an order requiring the reinstatement of  
 19 the employee. Damages recoverable shall not exceed lost wages for six  
 20 (6) weeks.

21 (7) If the creditor establishes by a preponderance of evidence that  
 22 a violation is unintentional or the result of a bona fide error, no liability  
 23 is imposed under subsections (1), (2), and (4) and the validity of the  
 24 transaction is not affected.

25 (8) In any case in which it is found that a creditor has violated this  
 26 Article, the court may award reasonable attorney's fees incurred by the  
 27 debtor.

28 (9) The department may act on behalf of a debtor to enforce the  
 29 debtor's rights under this section against a creditor who is licensed or  
 30 registered with the department or is required to be licensed or  
 31 registered with the department.

32 SECTION 16. IC 24-4.5-7-102, AS AMENDED BY P.L.69-2018,  
 33 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2020]: Sec. 102. (1) Except as otherwise provided, all  
 35 provisions of this article applying to consumer loans, including  
 36 IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

37 (2) Subject to subsection (7), a person may not regularly engage in  
 38 Indiana in any of the following actions unless the department first  
 39 issues to the person a license under this chapter:

- 40 (a) The making of small loans.
- 41 (b) Taking assignments of small loans.
- 42 (c) Undertaking the direct collection of payments from or the



- 1 enforcement of rights against debtors arising from small loans.  
 2 (3) Subject to subsection (4), a person that seeks licensure under  
 3 this chapter:  
 4 (a) shall apply to the department for a license in the form and  
 5 manner prescribed by the department; and  
 6 (b) is subject to the same licensure requirements and procedures  
 7 as an applicant for a license to make consumer loans (other than  
 8 mortgage transactions) under IC 24-4.5-3-502.  
 9 (4) A person that seeks to make, take assignments of, or undertake  
 10 the direct collection of payments from or the enforcement of rights  
 11 against debtors arising from both:  
 12 (a) small loans under this chapter; and  
 13 (b) consumer loans (other than mortgage transactions) that are not  
 14 small loans;  
 15 must obtain a separate license from the department for each type of  
 16 loan, as described in IC 24-4.5-3-502(5).  
 17 (5) This chapter applies to:  
 18 (a) a lender;  
 19 (b) a bank, savings association, credit union, or other state or  
 20 federally regulated financial institution except those that are  
 21 specifically exempt regarding limitations on interest rates and  
 22 fees; or  
 23 (c) a person, if the department determines that a transaction is:  
 24 (i) in substance a disguised loan; or  
 25 (ii) the application of subterfuge for the purpose of avoiding  
 26 this chapter.  
 27 (6) A loan that:  
 28 (a) does not qualify as a small loan under section 104 of this  
 29 chapter;  
 30 (b) is for a term shorter than that specified in section 401(1) of  
 31 this chapter; or  
 32 (c) is made in violation of section 201, 401, 402, 404, or 410 of  
 33 this chapter;  
 34 is subject to this article. The department may conform the loan finance  
 35 charge for a loan described in this subsection to the limitations set forth  
 36 in ~~IC 24-4.5-3-508(2)~~. **IC 24-4.5-3-508.1.**  
 37 (7) Notwithstanding IC 24-4.5-1-301.5, for purposes of subsection  
 38 (2), a person "regularly engages" in any of the activities described in  
 39 subsection (2) with respect to a small loan if the person:  
 40 (a) performed any of the activities described in subsection (2)  
 41 with respect to a small loan at least one (1) time in the preceding  
 42 calendar year; or



1 (b) performs or will perform any of the activities described in  
 2 subsection (2) with respect to a small loan at least one (1) time in  
 3 the current calendar year if the person did not perform any of the  
 4 activities described in subsection (2) with respect to a small loan  
 5 at least one (1) time in the preceding calendar year.

6 SECTION 17. IC 24-4.5-7-411 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 411. Finance charges  
 8 made in compliance with this chapter are exempt from ~~IC 24-4.5-3-508~~  
 9 **IC 24-4.5-3-508.1** and IC 35-45-7.

10 SECTION 18. IC 28-7-5-28 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 28. (a) The maximum  
 12 rate of interest charged by pawnbrokers shall be the same as the  
 13 maximum loan finance charge for supervised lenders under  
 14 ~~IC 24-4.5-3-508(2)~~. **IC 24-4.5-3-508.1**. For purposes of this subsection:

- 15 (1) the term of a loan commences on the date on which the loan  
 16 is made;  
 17 (2) differences in lengths of months are disregarded; and  
 18 (3) each day is counted as one-thirtieth (1/30) of a month.

19 The minimum term of a loan made by a pawnbroker is one (1) month.  
 20 However, on loans paid in full within the first month, the pawnbroker  
 21 may charge one (1) month's interest.

22 (b) Interest shall not be deducted in advance, neither shall the  
 23 pawnbroker induce or permit any borrower to split up or divide any  
 24 loan or loans for the purpose of evading any provisions of this chapter.

25 (c) If a pawnbroker charges or receives interest in excess of that  
 26 provided in this section, or makes any charges not authorized by this  
 27 chapter, the pawnbroker shall forfeit principal and interest and return  
 28 the pledge upon demand of the pledger and surrender of the pawn  
 29 ticket without the principal or interest. If such excessive or  
 30 unauthorized charges have been paid by the pledger, the pledger may  
 31 recover the same, including the principal if paid, in a civil action  
 32 against the pawnbroker.

33 SECTION 19. IC 35-45-7-2, AS AMENDED BY P.L.158-2013,  
 34 SECTION 536, IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2020]: Sec. 2. A person who, in exchange for  
 36 the loan of any property, knowingly or intentionally receives or  
 37 contracts to receive from another person any consideration, at a rate  
 38 greater than two (2) times the rate specified in ~~IC 24-4.5-3-508(2)(a)(i)~~;  
 39 **IC 24-4.5-3-501(1)** commits loansharking, a Level 6 felony. However,  
 40 loansharking is a Level 5 felony if force or the threat of force is used to  
 41 collect or to attempt to collect any of the property loaned or any of the  
 42 consideration for the loan.

