

# SENATE BILL No. 394

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.5-2-203.5; IC 24-4.5-3-203.5.

**Synopsis:** UCCC delinquency charges. Amends the Uniform Consumer Credit Code (UCCC) to specify that a delinquency charge that: (1) is not more than \$5; and (2) is subject to: (A) statutory indexing based on the Consumer Price Index; and (B) change, if contracted for by the parties; is authorized for a consumer credit sale or consumer loan (or to a refinancing or consolidation of either) that is made before July 1, 2019. Specifies that the following delinquency charges, not subject to indexing or to change by agreement of the parties, are authorized for a consumer credit sale or consumer loan (or to a refinancing or consolidation of either) that is made after June 30, 2019: (1) \$5, if installments are due every 14 days or less. (2) \$25, if installments are due every 15 days or more. (3) \$25, in the case of a single installment due at least 30 days after the consumer credit sale or consumer loan is made. Makes cross references in the UCCC provisions concerning delinquency fees to the UCCC provisions that prohibit sellers and lenders from assessing a charge for: (1) a skip-a-payment service; or (2) an optional expedited payment service; with respect to any payment for which a delinquency charge has been assessed.

**Effective:** July 1, 2019 (retroactive).

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January 14, 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. 394

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 24-4.5-2-203.5, AS AMENDED BY P.L.280-2019,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019 (RETROACTIVE)]: Sec. 203.5. Delinquency Charges  
4 — (1) With respect to a consumer credit sale, refinancing, or  
5 consolidation, the parties may contract for a delinquency charge of not  
6 more than **the following:**  
7 (a) Five dollars (\$5) on any installment or minimum payment due  
8 that is not paid in full ~~within~~ **not later than** ten (10) days after its  
9 scheduled due date, **in the case of a consumer credit sale,**  
10 **refinancing, or consolidation that is made before July 1, 2019.**  
11 **The amount of five dollars (\$5) in this subdivision is subject**  
12 **to change under IC 24-4.5-1-106. In addition, the parties may**  
13 **provide by contract for a delinquency charge that is subject**  
14 **to change. If the parties provide by contract for a delinquency**  
15 **charge that is subject to change, the seller shall disclose in the**  
16 **contract that the amount of the delinquency charge is subject**  
17 **to change as allowed by IC 24-4.5-1-106.**



1 **(b) In the case of a consumer credit sale, refinancing, or**  
 2 **consolidation that is made after June 30, 2019, the following:**

3 **(i) Five dollars (\$5) on any installment or minimum**  
 4 **payment due that is not paid in full not later than ten (10)**  
 5 **days after its scheduled due date, if installments under the**  
 6 **consumer credit sale, refinancing, or consolidation are due**  
 7 **every fourteen (14) days or less. The amount of five dollars**  
 8 **(\$5) in this clause is not subject to change under**  
 9 **IC 24-4.5-1-106.**

10 ~~(b)~~ **(ii) Twenty-five dollars (\$25) on any installment or**  
 11 **minimum payment due that is not paid in full within not later**  
 12 **than ten (10) days after its scheduled due date, if installments**  
 13 **under the consumer credit sale, refinancing, or consolidation**  
 14 **are due every fifteen (15) days or more. or The amount of**  
 15 **twenty-five dollars (\$25) in this clause is not subject to**  
 16 **change under IC 24-4.5-1-106.**

17 ~~(c)~~ **(iii) Twenty-five dollars (\$25) on any installment or**  
 18 **minimum payment due that is not paid in full within not later**  
 19 **than ten (10) days after its scheduled due date, in the case of**  
 20 **a consumer credit sale, refinancing, or consolidation that is**  
 21 **payable in a single installment that is due at least thirty (30)**  
 22 **days after the consumer credit sale, refinancing, or**  
 23 **consolidation is made. The amount of twenty-five dollars**  
 24 **(\$25) in this clause is not subject to change under**  
 25 **IC 24-4.5-1-106.**

26 (2) A delinquency charge under this section may be collected only  
 27 once on an installment however long it remains in default. A  
 28 delinquency charge on consumer credit sales made under a revolving  
 29 charge account may be applied each month that the payment is less  
 30 than the minimum required payment. A delinquency charge may be  
 31 collected any time after it accrues. No delinquency charge may be  
 32 collected if:

33 **(a) the installment has been deferred and a deferral charge**  
 34 **(IC 24-4.5-2-204) has been paid or incurred;**

35 **(b) a charge for a skip-a-payment service under**  
 36 **IC 24-4.5-2-202(1)(f) has been paid or incurred, as provided**  
 37 **in IC 24-4.5-2-202(1)(f)(iii); or**

38 **(c) a charge for an optional expedited payment service under**  
 39 **IC 24-4.5-2-202(1)(g) has been paid or incurred, as provided**  
 40 **in IC 24-4.5-2-202(1)(g)(v).**

41 (3) A creditor may not, directly or indirectly, charge or collect a  
 42 delinquency charge on a payment that:



1 (a) is paid ~~within~~ **not later than** ten (10) days after its scheduled  
2 due date; and

3 (b) is otherwise a full payment of the payment due for the  
4 applicable installment period;

5 if the only delinquency with respect to the consumer credit sale,  
6 refinancing, or consolidation is attributable to a delinquency charge  
7 assessed on an earlier installment.

8 (4) If two (2) or more installments, or parts of two (2) or more  
9 installments, of a precomputed consumer credit sale are in default for  
10 ten (10) days or more, the creditor may elect to convert the consumer  
11 credit sale from a precomputed consumer credit sale to a consumer  
12 credit sale in which the credit service charge is based on unpaid  
13 balances. A creditor that makes this election shall make a rebate under  
14 the provisions on rebates upon prepayment under IC 24-4.5-2-210 as  
15 of the maturity date of the first delinquent installment, and thereafter  
16 may make a credit service charge as authorized by the provisions on  
17 credit service charges for consumer credit sales under IC 24-4.5-2-201.  
18 The amount of the rebate shall not be reduced by the amount of any  
19 permitted minimum charge under IC 24-4.5-2-210. Any deferral  
20 charges made on installments due at or after the maturity date of the  
21 first delinquent installment shall be rebated, and no further deferral  
22 charges shall be made.

23 ~~(5) If the parties provide by contract for a delinquency charge that~~  
24 ~~is subject to change, the seller shall disclose in the contract that the~~  
25 ~~amount of the delinquency charge is subject to change as allowed by~~  
26 ~~IC 24-4.5-1-106.~~

27 SECTION 2. IC 24-4.5-3-203.5, AS AMENDED BY P.L.280-2019,  
28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2019 (RETROACTIVE)]: Sec. 203.5. Delinquency Charges  
30 — (1) With respect to a consumer loan, refinancing, or consolidation,  
31 the parties may contract for a delinquency charge of not more than **the**  
32 **following:**

33 (a) Five dollars (\$5) on any installment or minimum payment due  
34 that is not paid in full ~~within~~ **not later than** ten (10) days after its  
35 scheduled due date, **in the case of a consumer loan, refinancing,**  
36 **or consolidation that is made before July 1, 2019. The amount**  
37 **of five dollars (\$5) in this subdivision is subject to change**  
38 **under IC 24-4.5-1-106. In addition, the parties may provide by**  
39 **contract for a delinquency charge that is subject to change. If**  
40 **the parties provide by contract for a delinquency charge that**  
41 **is subject to change, the lender shall disclose in the contract**  
42 **that the amount of the delinquency charge is subject to change**



1 as allowed by IC 24-4.5-1-106.

2 **(b) In the case of a consumer loan, refinancing, or**  
 3 **consolidation that is made after June 30, 2019, the following:**

4 **(i) Five dollars (\$5) on any installment or minimum**  
 5 **payment due that is not paid in full not later than ten (10)**  
 6 **days after its scheduled due date, if installments under the**  
 7 **consumer loan, refinancing, or consolidation are due every**  
 8 **fourteen (14) days or less. The amount of five dollars (\$5) in**  
 9 **this clause is not subject to change under IC 24-4.5-1-106.**

10 ~~(b)~~ **(ii) Twenty-five dollars (\$25) on any installment or**  
 11 **minimum payment due that is not paid in full within not later**  
 12 **than ten (10) days after its scheduled due date, if installments**  
 13 **under the consumer loan, refinancing, or consolidation are due**  
 14 **every fifteen (15) days or more. or The amount of twenty-five**  
 15 **dollars (\$25) in this clause is not subject to change under**  
 16 **IC 24-4.5-1-106.**

17 ~~(c)~~ **(iii) Twenty-five dollars (\$25) on any installment or**  
 18 **minimum payment due that is not paid in full within not later**  
 19 **than ten (10) days after its scheduled due date, in the case of**  
 20 **a consumer loan, refinancing, or consolidation that is payable**  
 21 **in a single installment that is due at least thirty (30) days after**  
 22 **the consumer loan, refinancing, or consolidation is made. The**  
 23 **amount of twenty-five dollars (\$25) in this clause is not**  
 24 **subject to change under IC 24-4.5-1-106.**

25 (2) A delinquency charge under this section may be collected only  
 26 once on an installment however long it remains in default. With regard  
 27 to a delinquency charge on consumer loans made under a revolving  
 28 loan account, the delinquency charge may be applied each month that  
 29 the payment is less than the minimum required payment on the  
 30 account. A delinquency charge may be collected any time after it  
 31 accrues. A delinquency charge may not be collected if:

32 **(a) the installment has been deferred and a deferral charge (IC**  
 33 **24-4.5-3-204) has been paid or incurred;**

34 **(b) a charge for a skip-a-payment service under**  
 35 **IC 24-4.5-3-202(1)(i) has been paid or incurred, as provided**  
 36 **in IC 24-4.5-3-202(1)(i)(iii); or**

37 **(c) a charge for an optional expedited payment service under**  
 38 **IC 24-4.5-3-202(1)(j) has been paid or incurred, as provided**  
 39 **in IC 24-4.5-3-202(1)(j)(v).**

40 (3) A creditor may not, directly or indirectly, charge or collect a  
 41 delinquency charge on a payment that:

42 **(a) is paid within not later than ten (10) days after its scheduled**



1 due date; and  
2 (b) is otherwise a full payment of the payment due for the  
3 applicable installment period;  
4 if the only delinquency with respect to the consumer loan, refinancing,  
5 or consolidation is attributable to a delinquency charge assessed on an  
6 earlier installment.  
7 (4) If two (2) or more installments, or parts of two (2) or more  
8 installments, of a precomputed loan are in default for ten (10) days or  
9 more, the lender may elect to convert the loan from a precomputed loan  
10 to a loan in which the finance charge is based on unpaid balances. A  
11 lender that makes this election shall make a rebate under the provisions  
12 on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date  
13 of the first delinquent installment, and thereafter may make a loan  
14 finance charge as authorized by the provisions on loan finance charges  
15 for consumer loans (IC 24-4.5-3-201) or supervised loans (IC  
16 24-4.5-3-508). The amount of the rebate shall not be reduced by the  
17 amount of any permitted minimum charge (IC 24-4.5-3-210). Any  
18 deferral charges made on installments due at or after the maturity date  
19 of the first delinquent installment shall be rebated, and no further  
20 deferral charges shall be made.  
21 ~~(5) If the parties provide by contract for a delinquency charge that~~  
22 ~~is subject to change, the lender shall disclose in the contract that the~~  
23 ~~amount of the delinquency charge is subject to change as allowed by~~  
24 ~~IC 24-4.5-1-106.~~  
25 **SECTION 3. An emergency is declared for this act.**

