

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 ENROLLED ACT No. 395

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AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-4.5-1-106, AS AMENDED BY P.L.140-2013, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 106. (1) The dollar amounts in this article designated as subject to change shall change, as provided in this section, according to the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1957-59 equals 100, compiled by Bureau of Labor Statistics, United States Department of Labor, and referred to in this section as the Index. The Index for October, 1971, is the Reference Base Index.

(2) The dollar amounts shall change on ~~July~~ **January 1** of each ~~even-numbered~~ **odd-numbered** year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding **odd-numbered** year and the Reference Base Index is ten percent (10%) or more, except that:

- (a) the portion of the percentage change in the Index in excess of a multiple of ten percent (10%) shall be disregarded and the dollar amounts shall change only in multiples of ten percent (10%) of the amounts on March 5, 1971;
- (b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to this article as a result of earlier application of the section; and
- (c) in no event shall the dollar amounts be reduced below the

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amounts appearing in this article on March 5, 1971.

(3) If the Index is revised after December 1967, the percentage of change shall be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index shall be determined by multiplying the Reference Base Index by the ratio of the revised Index to the current Index, as each was for the first month in which the revised Index is available. If the Index is superseded, the Index is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(4) The department shall issue an emergency rule under IC 4-22-2-37.1 announcing:

- (a) ~~on or~~ **sixty (60) days** before ~~April 30~~ **January 1** of each **odd-numbered** year in which dollar amounts are to change, the changes in dollar amounts required by subsection (2); and
- (b) promptly after the changes occur, changes in the Index required by subsection (3), including, when applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index.

An emergency rule adopted under this subsection expires on the date the department is next required to issue a rule under this subsection.

(5) A person does not violate this article through a transaction otherwise complying with this article if the person relies on dollar amounts either determined according to subsection (2) or appearing in the last rule of the department announcing the then current dollar amounts.

SECTION 2. IC 24-4.5-2-201, AS AMENDED BY P.L.91-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 201. Credit Service Charge for Consumer Credit Sales ~~other than Revolving Charge Accounts~~ — (1) **Except as provided in subsections (8) and (11)**, with respect to a consumer credit sale, ~~other than a sale pursuant to a revolving charge account~~; a seller may contract for and receive a credit service charge not exceeding that permitted by this section.

(2) The credit service charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of:

- (a) the total of:
  - (i) thirty-six percent (36%) per year on that part of the unpaid balances of the amount financed (**as defined in section 111 of this chapter**) which is two thousand dollars (\$2,000) or less;
  - (ii) twenty-one percent (21%) per year on that part of the

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unpaid balances of the amount financed (**as defined in section 111 of this chapter**) which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed (**as defined in section 111 of this chapter**) which is more than four thousand dollars (\$4,000); or

(b) twenty-five percent (25%) per year on the unpaid balances of the amount financed (**as defined in section 111 of this chapter**).

**(3) In the case of a sale agreement entered into before July 1, 2020**, this section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

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

**(4) The following apply to a sale agreement for a consumer credit sale (or for the refinancing or consolidation of a consumer credit sale) that is entered into after June 30, 2020:**

**(a) The credit service charge authorized by this section must be:**

**(i) contracted for between the seller and the debtor; and**

**(ii) calculated by applying a rate not exceeding the rate set forth in subsection (2) to unpaid balances of the amount financed (as defined in section 111 of this chapter).**

**(b) A sale agreement for a precomputed consumer credit sale is prohibited.**

**(c) Subject to subsection (13), in addition to the credit service charge authorized by subsection (2) and to any other fees permitted by this chapter, and not subject to the rate set forth in subsection (2), the seller may contract for and receive as a condition for, or an incident to, the extension of credit a nonrefundable prepaid finance charge under subsection (11), whether the charge is:**

**(i) paid separately in cash or by check before or at consummation; or**

**(ii) withheld from the proceeds of the consumer credit sale.**

**(4) (5) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered**



or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

(a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.

(b) Partial Deliveries. Where any portion of the order has been delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth ( $1/30$ ) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

**(6) With respect to a consumer credit sale made pursuant to a revolving charge account, the parties to the sale may contract for the payment by the buyer of a credit service charge not exceeding that permitted in this section, subject to the following:**

**(a) The credit service charge contracted for and received may not exceed a charge in each monthly billing cycle which is either two and eighty-three thousandths percent (2.083%) of an amount not greater than:**

**(i) the average daily balance of the account;**

**(ii) the unpaid balance of the account on the same day of the billing cycle; or**

**(iii) subject to subsection (7), the median amount within a specified range within which the average daily balance of the account or the unpaid balance of the account, on the same day of the billing cycle, is included.**

**For purposes of clauses (ii) and (iii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle".**

**(b) If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly maximum percentage as the number of days in the billing cycle bears to thirty (30).**

**(c) Notwithstanding subdivision (a), if there is an unpaid**



**balance on the date as of which the credit service charge is applied, the seller may contract for and receive a charge not exceeding fifty cents (\$0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$0.50) which bears the same relation to fifty cents (\$0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly. However, a seller may not contract for or receive a charge under this subdivision if the seller has made an annual charge for the same period as permitted by the provisions on additional charges in section 202(1)(e) of this chapter.**

~~(5)~~ (7) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

- (a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and
- (b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to ~~paragraph~~ **subdivision** (a) by more than eight percent (8%) of the rate calculated according to ~~paragraph~~ **subdivision** (a).

~~(6)~~ (8) Notwithstanding subsection (2), **with respect to a consumer sale other than a sale under a revolving charge account**, the seller may contract for and receive a minimum credit service charge of not more than thirty dollars (\$30). The minimum credit service charge allowed under this subsection may be imposed only if **the seller does not contract for or receive a nonrefundable prepaid finance charge under subsection (11) and:**

- (a) the debtor prepays in full a consumer credit sale, refinancing, or consolidation, regardless of whether the sale, refinancing, or consolidation is precomputed;
- (b) the sale, refinancing, or consolidation prepaid by the debtor is subject to a credit service charge that:
  - (i) is contracted for by the parties; and
  - (ii) does not exceed the rate prescribed in subsection (2); and
- (c) the credit service charge earned at the time of prepayment is less than the minimum credit service charge contracted for under this subsection.

~~(7)~~ (9) The amounts of two thousand dollars (\$2,000) and four thousand dollars (\$4,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts



(IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2012.

~~(8)~~ **(10)** The amount of thirty dollars (\$30) in subsection ~~(6)~~ **(8)** is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

**(11) This subsection applies to a sale agreement entered into after June 30, 2020. Except as provided in subsection (8), and subject to subsection (13), in addition to the credit service charge authorized by subsection (2), and to any other fees permitted by this chapter, a seller may contract for and receive a nonrefundable prepaid finance charge in an amount which is not more than:**

- (a) seventy-five dollars (\$75) for an amount financed (as defined in section 111 of this chapter) which is two thousand dollars (\$2,000) or less;**
- (b) one hundred fifty dollars (\$150) for an amount financed (as defined in section 111 of this chapter) which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000); and**
- (c) two hundred dollars (\$200) for an amount financed (as defined in section 111 of this chapter) which is more than four thousand dollars (\$4,000).**

The nonrefundable prepaid finance charge is not subject to refund or rebate. However, any amount charged by the seller, other than by a seller that is a depository institution (as defined in IC 24-4.5-1-301.5(12)), under this subsection that exceeds the applicable amount permitted by this subsection constitutes a violation of this article under IC 24-4.5-6-107.5(l) and is subject to refund. Any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) under this subsection that exceeds the applicable amount set forth in this subsection is subject to refund. The amounts in this subsection are not subject to change under IC 24-4.5-1-106.

**(12) If the director determines that a seller's accrual method of accounting as applied to a consumer credit sale under this section involves the application of subterfuge for the purpose of circumventing this chapter, the director may conform the credit service charge and fees for the transaction to the limitations set forth in this section and may require a refund of overcharges under IC 24-4.5-6-106(2)(a). A determination by the director under**



**this subsection:**

- (a) must be in writing;**
- (b) shall be delivered to all parties in the transaction; and**
- (c) is subject to IC 4-21.5-3.**

**(13) At the time of consummation of a consumer credit sale:**

- (a) the credit service charge authorized by subsection (2); and**
- (b) the nonrefundable prepaid finance charge authorized by subsection (11) (including any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) that exceeds the applicable amount set forth in subsection (11) in the case of a sale agreement entered into after June 30, 2020;**

**are subject to IC 35-45-7 and, when combined, may not exceed the rate set forth in IC 35-45-7-2.**

SECTION 3. IC 24-4.5-2-204, AS AMENDED BY P.L.186-2015, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 204. Deferral Charges—(1) **This section applies only to a consumer credit sale, refinancing, or consolidation, that is entered into before July 1, 2020.** With respect to a precomputed consumer credit sale, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid ~~instalments~~, **installments**, and the seller may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or the rate previously stated to the buyer pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to differences in lengths of months, but proportionately for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The seller, in addition to the deferral charge, may make appropriate additional charges (IC 24-4.5-2-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer credit sale, refinancing, or consolidation that if an ~~instalment~~ **installment** is not paid within ten (10) days after its due date, the seller may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the seller elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the seller on an ~~instalment~~ **installment** may not be retained if a deferral charge is made pursuant

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to this section with respect to the period of delinquency.

SECTION 4. IC 24-4.5-2-205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 205. Credit Service Charge on Refinancing — With respect to a consumer credit sale, refinancing, or consolidation, the seller may by agreement with the buyer refinance the unpaid balance and may contract for and receive a credit service charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on credit service charge for consumer credit sales (IC 24-4.5-2-201). For the purpose of determining the credit service charge permitted, the amount financed resulting from the refinancing comprises the following:

(+) (a) If:

- (i) the transaction was not precomputed, the total of the unpaid balance and accrued charges on the date of refinancing; or if
- (ii) the transaction was precomputed, **in the case of a transaction entered into before July 1, 2020**, the amount which the buyer would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-2-210) on the date of refinancing.

(2) (b) Appropriate additional charges (IC 24-4.5-2-202), payment of which is deferred.

SECTION 5. IC 24-4.5-2-207 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 207. Credit Service Charge for Revolving Charge Accounts — (1) With respect to a consumer credit sale made pursuant to a revolving charge account, the parties to the sale may contract for the payment by the buyer of a credit service charge not exceeding that permitted in this section:

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than:

- (a) the average daily balance of the account,
- (b) the unpaid balance of the account on the same day of the billing cycle; or
- (c) the median amount within a specified range within which the average daily balance of the account or the unpaid balance of the account on the same day of the billing cycle is included. A charge may be made pursuant to this subdivision only if the seller, subject to classification and differentiations the seller may reasonably establish, makes the same charge on all balances within the specified range and if the percentage when applied to the median amount within the range does not produce a charge exceeding the charge resulting from applying that percentage to





the lowest amount within the range by more than eight percent (8%) of the charge on the median amount.

(3) If the billing cycle is monthly, the charge may not exceed two and eighty-three thousandths percent (2.083%) of the amount pursuant to subsection (2). If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30). For the purposes of this section, a variation of not more than four (4) days from month to month is "the same day of the billing cycle".

(4) Notwithstanding subsection (3), if there is an unpaid balance on the date as of which the credit service charge is applied, the seller may contract for and receive a charge not exceeding fifty cents (\$.50), if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$.50) which bears the same relation to fifty cents (\$.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly.

SECTION 6. IC 24-4.5-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 208. Advances to Perform Covenants of Buyer — (1) If the agreement with respect to a consumer credit sale, refinancing, or consolidation contains covenants by the buyer to perform certain duties pertaining to insuring or preserving collateral and the seller pursuant to the agreement pays for performance of the duties on behalf of the buyer, the seller may add the amounts paid to the debt. Within a reasonable time after advancing any sums, ~~he~~ **the seller** shall state to the buyer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the buyer performed by the seller pertain to insurance, a brief description of the insurance paid for by the seller including the type and amount of coverages. No further information need be given.

(2) A credit service charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the buyer pursuant to the provisions on disclosure (Part 3) with respect to the sale, refinancing or consolidation, except that with respect to a revolving charge account the amount of the advance may be added to the unpaid balance of the account and the seller may make a credit service charge not exceeding that permitted by the provisions on credit service charge for revolving charge accounts (~~24-4.5-2-207~~): **(IC 24-4.5-2-201(6))**.

SECTION 7. IC 24-4.5-2-209, AS AMENDED BY P.L.73-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2020]: Sec. 209. (1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total credit service charge:

(a) including the prepaid credit service charge; **but**

**(b) subject to section 201(13) of this chapter, excluding the nonrefundable prepaid finance charge allowed under section 201(11) of this chapter, in the case of a sale agreement entered into after June 30, 2020;**

may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide, in writing, an accurate payoff amount for the consumer credit sale to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars (\$100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars (\$100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).



A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit sale in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land upon which there is constructed or intended to be constructed a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than five (5) business days (excluding legal public holidays, Saturdays, and Sundays) after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days (excluding legal public holidays, Saturdays, and Sundays) after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:

- (a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or
- (b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to



respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

(5) This section is not intended to provide the owner of real estate subject to the issuance of process under a judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of the borrower protections from liability that must be disclosed under 12 CFR 1026.38(p)(3) on the form required by 12 CFR 1026.38 ("Closing Disclosures" form under the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)).

SECTION 8. IC 24-4.5-2-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 210. Rebate upon Prepayment — (1) **Except for subsections (2) and (9), this section applies only to a sale agreement entered into before July 1, 2020.** Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer credit sale, refinancing, or consolidation, an amount not less than the unearned portion of the credit service charge calculated according to this section shall be rebated to the buyer. If the rebate required is less than one dollar (\$1), no rebate need be made.

(2) Upon prepayment in full of a consumer credit sale, refinancing, or consolidation, other than one pursuant to a revolving charge account, if the credit service charge then earned is less than any permitted minimum credit service charge (~~IC 24-4.5-2-201(6)~~) **(IC 24-4.5-2-201(8))** contracted for, whether or not the sale, refinancing, or consolidation is precomputed, the seller may collect or retain the minimum charge, as if earned, not exceeding the credit service charge contracted for.

(3) The unearned portion of the credit service charge is a fraction of the credit service charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the sale agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-2-205) or a consolidation (IC 24-4.5-2-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before



deducting the payment, if any, scheduled to be made on that day;  
 (b) "computational period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;

(c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a sale, refinancing, or consolidation, or any later date prescribed for calculating maximum credit service charges (~~IC 24-4.5-2-201(4)~~) (**IC 24-4.5-2-201(5)**) and includes either the first or last day of the interval; and

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

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

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

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This ~~subparagraph~~ **clause** applies whether or not clause (i) applies.

(b) Notwithstanding ~~paragraph~~ **subdivision** (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the seller, at the seller's option,



may exclude the extra days and the charge for the extra days in computing the unearned credit service charge; but if the seller does so and a rebate is required before the due date of the first scheduled installment, the seller shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of this first scheduled installment is less than five (5) days or more than nine (9) days but not more than eleven (11) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) week; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This ~~subparagraph~~ **clause** applies whether or not ~~subparagraph~~ **clause** (i) applies.

(6) If a deferral (IC 24-4.5-2-204) has been agreed to, the unearned portion of the credit service charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the credit service charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the credit service charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the seller of delinquency charges (~~IC 24-4.5-2-203, repealed in 1994~~): **(IC 24-4.5-2-203.5)**.

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

(9) Upon prepayment in full of a consumer credit sale by the



proceeds of consumer credit insurance (**as defined in IC 24-4.5-4-103**), the buyer or the buyer's estate shall pay the same credit service charge or receive the same rebate as though the buyer had prepaid the agreement on the date the proceeds of the insurance are paid to the seller, but no later than ten (10) business days after satisfactory proof of loss is furnished to the seller. This subsection applies whether or not the credit sale is precomputed.

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

SECTION 9. IC 24-4.5-2-602, AS AMENDED BY P.L.73-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 602. (1) A "consumer related sale" is a sale of goods, services, or an interest in land in which:

- (a) credit is granted by a person that is not regularly engaged as a seller in credit transactions of the same kind;
- (b) the buyer is a person other than an organization;
- (c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
- (d) either the debt is payable in installments or a credit service charge is made; and
- (e) with respect to a sale of goods or services:
  - (i) either the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
  - (ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

(2) With respect to a consumer related sale not made pursuant to a revolving charge account, the parties may contract for an amount comprising the amount financed and a credit service charge not in excess of twenty-five percent (25%) per year calculated according to the actuarial method on the unpaid balances of the amount financed.

(3) With respect to a consumer related sale made pursuant to a revolving charge account, the parties may contract for a credit service charge not in excess of that permitted by the provisions on credit



service charge for revolving charge accounts (~~IC 24-4.5-2-207~~); **(IC 24-4.5-2-201(6))**.

(4) A person engaged in consumer related sales is not required to comply with IC 24-4.5-6-201 through IC 24-4.5-6-203.

SECTION 10. IC 24-4.5-3-201, AS AMENDED BY P.L.159-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans—(1) Except as provided in subsections ~~(6)~~ (7) and ~~(8)~~; **(9)**, with respect to a consumer loan, other than a supervised loan (as defined in section 501 of this chapter), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-five percent (25%) per year on the unpaid balances of the principal **(as defined in section 107(3) of this chapter)**.

**(2) In the case of a loan agreement entered into before July 1, 2020**, this section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

- (a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and
- (b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

**(3) The following apply to a loan agreement for a consumer loan (or for the refinancing or consolidation of a consumer loan) that is entered into after June 30, 2020:**

- (a) The consumer loan is subject to this section, including the limitations set forth in:**
  - (i) subsection (1) with respect to the loan finance charge; and**
  - (ii) subsection (9)(b) with respect to the amount of the authorized nonrefundable prepaid finance charge, in the case of a consumer loan that is not secured by an interest in land.**
- (b) The loan finance charge authorized by this section must be:**
  - (i) contracted for between the lender and the debtor; and**
  - (ii) calculated by applying a rate not exceeding the rate set forth in subsection (1) to unpaid balances of the principal (as defined in section 107(3) of this chapter).**
- (c) A loan agreement for a precomputed consumer loan is prohibited.**





**(d) Subject to subsection (12), in addition to the loan finance charge authorized by subsection (1) and to any other fees permitted by this chapter, and not subject to the twenty-five percent (25%) rate set forth in subsection (1), the lender may contract for and receive as a condition for, or an incident to, the extension of credit a nonrefundable prepaid finance charge under subsection (9), whether the charge is:**

- (i) paid separately in cash or by check before or at consummation; or**
- (ii) withheld from the proceeds of the consumer loan.**

~~(3)~~ **(4)** For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

~~(4)~~ **(5)** With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is two and eighty-three thousandths percent (2.083%) of an amount not greater than:

- (i) the average daily balance of the debt;
- (ii) the unpaid balance of the debt on the same day of the billing cycle; or
- (iii) subject to subsection ~~(5)~~; **(6)**, the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this ~~subparagraph clause~~ and ~~subparagraph clause~~ **(ii)**, a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth (1/12) the maximum annual percentage rate as the



number of days in the billing cycle bears to thirty (30); and  
 (c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty cents (\$0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents (\$0.50) which bears the same relation to fifty cents (\$0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this ~~paragraph~~ **subdivision** if the lender has made an annual charge for the same period as permitted by the provisions on additional charges in section 202(1)(c) of this chapter.

~~(5)~~ **(6)** Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

- (a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and
- (b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to ~~paragraph~~ **subdivision** (a) by more than eight percent (8%) of the rate calculated according to ~~paragraph~~ **subdivision** (a).

~~(6)~~ **(7)** With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not ~~assess contract for or receive~~ a nonrefundable prepaid finance charge under subsection ~~(8)~~ **(9)** and:

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
  - (i) is contracted for by the parties; and
  - (ii) does not exceed the rate prescribed in subsection (1); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

~~(7)~~ **(8)** The amount of thirty dollars (\$30) in subsection ~~(6)~~ **(7)** is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the



Reference Base Index to be used under this subsection is the Index for October 1992.

~~(8)~~ **(9)** Except as provided in subsection ~~(6)~~, **(7)**, and **subject to subsection (12)**, in addition to the loan finance charge ~~provided for in this section~~ **authorized by subsection (1)** and to any other charges and fees permitted by this chapter, a lender may contract for and receive a nonrefundable prepaid finance charge of not more than the following:

(a) In the case of a consumer loan that is secured by an interest in land and that:

(i) is not made under a revolving loan account, two percent (2%) of the loan amount; or

(ii) is made under a revolving loan account, two percent (2%) of the line of credit.

(b) In the case of consumer loan that is not secured by an interest in land, fifty dollars (\$50) **if the loan agreement is entered into before July 1, 2020. If the loan agreement is entered into after June 30, 2020, not more than the following:**

(i) **Seventy-five dollars (\$75), in the case of a loan agreement for a principal amount which is two thousand dollars (\$2,000) or less.**

(ii) **One hundred fifty dollars (\$150) in the case of a loan agreement for a principal amount which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000).**

(iii) **Two hundred dollars (\$200) in the case of a loan agreement for a principal amount which is more than four thousand dollars (\$4,000).**

The amounts in this subsection are not subject to change under IC 24-4.5-1-106.

~~(9)~~ **(10)** The nonrefundable prepaid finance charge provided for in subsection ~~(8)~~ **(9)** is not subject to refund or rebate. **However, for any loan entered into after June 30, 2020, any amount charged by the lender, other than by a lender that is a depository institution (as defined in IC 24-4.5-1-301.5(12)), under subsection (9) that exceeds the applicable amount permitted by subsection (9)(b) constitutes a violation of this article under IC 24-4.5-6-107.5(l) and is subject to refund. Any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) under subsection (9) that exceeds the applicable amount set forth in subsection (9)(b) is subject to refund.**

**(11) If the director determines that a lender's accrual method of accounting as applied to a consumer loan under this section**



involves the application of subterfuge for the purpose of circumventing this chapter, the director may conform the loan finance charge and fees for the transaction to the limitations set forth in this section and may require a refund of overcharges under IC 24-4.5-6-106(2)(a). A determination by the director under this subsection:

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

(12) At the time of consummation of a consumer loan:

- (a) the loan finance charge authorized by subsection (1); and
- (b) the nonrefundable prepaid finance charge authorized by subsection (9) (including any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) that exceeds the applicable amount set forth in subsection (9)(b));

are subject to IC 35-45-7 and, when combined, may not exceed the rate set forth in IC 35-45-7-2.

~~(10)~~ (13) Notwithstanding subsections ~~(8)~~ (9) and ~~(9)~~; (10), in the case of a consumer loan that is not secured by an interest in land, if a lender retains any part of a nonrefundable prepaid finance charge charged on a loan that is paid in full by a new loan from the same lender, the following apply:

- (a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a nonrefundable prepaid finance charge on the new loan, or, in the case of a revolving loan, on the increased credit line.
- (b) The lender may not assess more than two (2) nonrefundable prepaid finance charges in any twelve (12) month period.
- (c) **Subject to subdivisions (a) and (b), if a loan that is entered into by a lender and a debtor before July 1, 2020, is paid in full by a new loan from the same lender after June 30, 2020, the lender may contract for and receive a nonrefundable prepaid finance charge in the amount set forth in subsection (9)(b) for loan agreements entered into after June 30, 2020.**

~~(11)~~ (14) In the case of a consumer loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the nonrefundable prepaid finance charge provided for in subsection ~~(8)~~: (9).

SECTION 11. IC 24-4.5-3-204, AS AMENDED BY P.L.175-2015, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2020]: Sec. 204. Deferral Charges — (1) **This section applies only to a consumer loan, refinancing, or consolidation, that is entered into before July 1, 2020.** With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid ~~instalments~~, **installments**, and the lender may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (IC 24-4.5-3-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an ~~instalment~~ **installment** is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an ~~instalment~~ **installment** may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

SECTION 12. IC 24-4.5-3-205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 205. Loan Finance Charge on Refinancing — With respect to a consumer loan, refinancing, or consolidation, the lender may by agreement with the debtor refinance the unpaid balance and may contract for and receive a loan finance charge based on the principal resulting from the refinancing at a rate not exceeding that permitted by the provisions on a loan finance charge for consumer loans (IC 24-4.5-3-201) or the provisions on a loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate. For the purpose of determining the loan finance charge permitted, the principal resulting from the refinancing comprises the following:

(+) (a) If:

(i) the transaction was not precomputed, the total of the unpaid balance and the accrued charges on the date of the refinancing;

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or if

- (ii) the transaction was precomputed, **in the case of a transaction entered into before July 1, 2020**, the amount which the debtor would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-3-210) on the date of refinancing. ~~and~~  
 (2) (b) Appropriate additional charges (IC 24-4.5-3-202), payment of which is deferred.

SECTION 13. IC 24-4.5-3-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec]. 206. Loan Finance Charge on Consolidation — (1) If a debtor owes an unpaid balance to a lender with respect to a consumer loan, refinancing, or consolidation, and becomes obligated on another consumer loan, refinancing, or consolidation with the same lender, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer loan, refinancing, or consolidation was not precomputed, the parties may agree to add the unpaid amount of principal and accrued charges on the date of consolidation to the principal with respect to the subsequent loan. If the previous consumer loan, refinancing, or consolidation was precomputed, **in the case of a transaction entered into before July 1, 2020**, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing (IC 24-4.5-3-205) and to consolidate the principal resulting from the refinancing by adding it to the principal with respect to the subsequent loan. In either case the lender may contract for and receive a loan finance charge based on the aggregate principal resulting from the consolidation at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (IC 24-4.5-3-201) or the provisions on loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate.

(2) The parties may agree to consolidate the unpaid balance of a consumer loan with the unpaid balance of a consumer credit sale. The parties may agree to refinance the previous unpaid balance pursuant to the provisions on refinancing sales (IC 24-4.5-2-205) or the provisions on refinancing loans (IC 24-4.5-3-205), whichever is appropriate, and to consolidate the amount financed resulting from the refinancing or the principal resulting from the refinancing by adding it to the amount financed or principal with respect to the subsequent sale or loan. The aggregate amount resulting from the consolidation shall be deemed principal, and the creditor may contract for and receive a loan finance charge based on the principal at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans

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(IC 24-4.5-3-201) or the provisions on loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate.

SECTION 14. IC 24-4.5-3-209, AS AMENDED BY P.L.159-2017, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

- (a) if the loan is refinanced or consolidated with the same creditor;
- (b) for prepayment by proceeds of any insurance or acceleration after default; or
- (c) after three (3) years from the contract date.

For purposes of this section, the collection of the amount of any conditionally waived closing costs (as allowed under section 202(d) of this chapter) by a creditor, as stipulated in the loan agreement, at the time of prepayment in full does not constitute a prepayment penalty and is not subject to the limitations set forth in this subsection.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total finance charge, including the prepaid finance charge but excluding the nonrefundable prepaid finance charge allowed under **section 201(9)** of this chapter, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

- (a) The nonrefundable prepaid finance charge allowed under **section 201(9)** of this chapter.
- (b) The debtor paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide, in writing, an accurate payoff amount for the consumer loan to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the



debtor's written request for the accurate consumer loan payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(a) one hundred dollars (\$100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars (\$100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer loan in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land upon which there is constructed or intended to be constructed a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than five (5) business days (excluding legal public holidays, Saturdays, and Sundays) after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting





on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days (excluding legal public holidays, Saturdays, and Sundays) after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:

- (a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or
- (b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

(5) This section is not intended to provide the owner of real estate subject to the issuance of process under a judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of the borrower protections from liability that must be disclosed under 12 CFR 1026.38(p)(3) on the form required by 12 CFR 1026.38 ("Closing Disclosures" form under the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)).

SECTION 15. IC 24-4.5-3-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 210. Rebate upon Prepayment. — (1) **Except for subsections (2) and (9), this section applies only to a loan agreement entered into before July 1, 2020.** Except as provided in subsection (2), upon prepayment in full of the



unpaid balance of a precomputed consumer loan, refinancing, or consolidation, an amount not less than the unearned portion of the loan finance charge calculated according to this section shall be rebated to the debtor. If the rebate otherwise required is less than one dollar (\$1), no rebate need be made.

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

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

(4) In this section:

- (a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;
- (b) "computation period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;
- (c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a loan, refinancing, or consolidation, and includes either the first or last day of the interval; and
- (d) if the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

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

- (a) If the computational period is one (1) month and:
  - (i) if the number of days in the interval to the due date of the



first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This ~~subparagraph~~ **clause** applies whether or not ~~subparagraph~~ **clause** (i) applies.

(b) Notwithstanding ~~paragraph~~ **subdivision** (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the lender, at the lender's option, may exclude the extra days and the charge for the extra days in computing the unearned loan finance charge; but if the lender does so and a rebate is required before the due date of the first scheduled installment, the lender shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than five (5) days, or more than nine (9) days, but not more than eleven (11) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment, assuming that period to be one (1) week; and



(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This **subparagraph clause** applies whether or not **subparagraph clause** (i) applies.

(6) If a deferral (IC 24-4.5-3-204) has been agreed to, the unearned portion of the loan finance charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the loan finance charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the loan finance charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the lender of delinquency charges (~~IC 24-4.5-3-203, repealed in 1994~~): **(IC 24-4.5-3-203.5)**.

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

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

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

SECTION 16. IC 24-4.5-3-508, AS AMENDED BY P.L. 159-2017, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.



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

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal (**as defined in section 107(3) of this chapter**) which is two thousand dollars (\$2,000) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal (**as defined in section 107(3) of this chapter**) which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal (**as defined in section 107(3) of this chapter**) which is more than four thousand dollars (\$4,000);

or

(b) twenty-five percent (25%) per year on the unpaid balances of the principal (**as defined in section 107(3) of this chapter**).

(3) **In the case of a loan agreement entered into before July 1, 2020**, this section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

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

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

**After June 30, 2020, a loan agreement may not be entered into for a precomputed supervised loan.**

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

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

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



(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to ~~paragraph~~ **subdivision (a)** by more than eight percent (8%) of the rate calculated according to ~~paragraph~~ **subdivision (a)**.

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

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

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
  - (i) is contracted for by the parties; and
  - (ii) does not exceed the rate prescribed in subsection (2); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(8) Except as provided in ~~subsection~~ **subsections (7) and (10)(c)**, in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, the lender may contract for and receive a nonrefundable prepaid finance charge of not more than fifty dollars (\$50) **if the loan agreement is entered into before July 1, 2020. If the loan agreement is entered into after June 30, 2020, not more than the following:**

- (a) Seventy-five dollars (\$75), in the case of a loan agreement for a principal amount which is two thousand dollars (\$2,000) or less.**
- (b) One hundred fifty dollars (\$150) in the case of a loan**



**agreement for a principal amount which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000).**

**(c) Two hundred dollars (\$200) in the case of a loan agreement for a principal amount which is more than four thousand dollars (\$4,000).**

**The amounts in this subsection are not subject to change under IC 24-4.5-1-106.**

(9) The nonrefundable prepaid finance charge provided for in subsection (8) is not subject to refund or rebate. **However, for any supervised loan entered into after June 30, 2020, any amount charged by the lender, other than by a lender that is a depository institution (as defined in IC 24-4.5-1-301.5(12)), under subsection (8) that exceeds the applicable amount permitted by subsection (8) constitutes a violation of this article under IC 24-4.5-6-107.5(l) and is subject to refund. Any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) under subsection (8) that exceeds the applicable amount set forth in subsection (8) is subject to refund.**

(10) Notwithstanding subsections (8) and (9), in the case of a supervised loan that is not secured by an interest in land, if a lender retains any part of a nonrefundable prepaid finance charge charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a nonrefundable prepaid finance charge on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) nonrefundable prepaid finance charges in any twelve (12) month period.

**(c) Subject to subdivisions (a) and (b), if a supervised loan that is entered into by a lender and a debtor before July 1, 2020, is paid in full by a new loan from the same lender after June 30, 2020, the lender may contract for and receive a nonrefundable prepaid finance charge in the amount set forth in subsection (8) for loan agreements entered into after June 30, 2020.**

(11) In the case of a supervised loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the nonrefundable prepaid finance charge provided for in



subsection (8).

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

(2) A creditor who provides consumer credit insurance in relation to a revolving charge account (**as defined in IC 24-4.5-2-108**) or revolving loan account (**as defined in IC 24-4.5-3-108**) may calculate the charge to the debtor in each billing cycle by applying the current premium rate to **one (1) of the following:**

- (a) The average daily unpaid balance of the debt in the cycle.
- (b) The unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the credit service charge (~~IC 24-4.5-2-207~~) (**IC 24-4.5-2-201(6)**) or loan finance charge (IC 24-4.5-3-201 and IC 24-4.5-3-508), but the specified range shall be the range used for that purpose.
- (c) The unpaid balances of principal calculated according to the actuarial method. ~~or~~
- (d) The amount of the insurance benefit for the cycle.

SECTION 18. IC 24-7-5-12, AS ADDED BY P.L.222-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. (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 ~~one dollar and fifty cents (\$1.50):~~ **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.

**SECTION 19. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to the interim study committee on financial institutions and insurance the task of studying the potential effect of breaking up the Uniform Consumer Credit Code codified at IC 24-4.5.**

**(b) This SECTION expires January 1, 2021.**

**SECTION 20. An emergency is declared for this act.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**SEA 395 — Concur**

