

SENATE BILL No. 613

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5.

Synopsis: Installment small loans. Authorizes a lender that is licensed by the department of financial institutions (department) to make small loans under the Uniform Consumer Credit Code (UCCC) to make installment small loans under the same license. Defines an "installment small loan" as a loan: (1) with a principal amount that is: (A) more than \$50 and not more than \$1,800; (B) fully amortizing; and (C) repayable in substantially equal and consecutive installments; (2) that has a term of not less than 112 days and not more than 180 days; and (3) in which the lender holds one or more checks of the borrower for a specific period, or receives the borrower's authorization to debit the borrower's account on one or more occasions for a specific period, before the lender deposits the check or debits the account. Specifies that provisions concerning: (1) required consumer disclosures; (2) business locations; and (3) surety bonds; in the UCCC chapter governing small loans also apply to installment small loans. Establishes a new chapter in the UCCC that establishes the following with respect to installment small loans: (1) An authorized finance charge of not more than \$15 per \$100 on the initial principal balance and on the principal balance outstanding during any installment period. (2) Permissible additional fees and charges. (3) Remedies and damages for violations by licensees and unlicensed persons. (4) Prohibited acts by a lender.

Effective: July 1, 2019.

Messmer

January 15, 2019, read first time and referred to Committee on Commerce and Technology.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 613

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

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

- 1 SECTION 1. IC 24-4.5-3-502, AS AMENDED BY P.L.153-2016,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 502. (1) A person that is a:
4 (a) depository institution;
5 (b) subsidiary that is owned and controlled by a depository
6 institution and regulated by a federal banking agency; or
7 (c) credit union service organization;
8 may engage in Indiana in the making of consumer loans (including
9 small loans that are subject to IC 24-4.5-7 **and installment small loans**
10 **that are subject to IC 24-4.5-8**) that are not mortgage transactions
11 without obtaining a license under this article.
12 (2) A collection agency licensed under IC 25-11-1 may engage in:
13 (a) taking assignments of consumer loans (including small loans
14 that are subject to IC 24-4.5-7 **and installment small loans that**
15 **are subject to IC 24-4.5-8**) that are not mortgage transactions;
16 and
17 (b) undertaking the direct collection of payments from or the



1 enforcement of rights against debtors arising from consumer loans
 2 (including small loans that are subject to IC 24-4.5-7 **and**
 3 **installment small loans that are subject to IC 24-4.5-8**) that are
 4 not mortgage transactions;
 5 in Indiana without obtaining a license under this article.

6 (3) A person that does not qualify under subsection (1) or (2) shall
 7 acquire and retain a license under this chapter in order to regularly
 8 engage in Indiana in the following actions with respect to consumer
 9 loans that are not small loans (as defined in IC 24-4.5-7-104),
 10 **installment small loans (as defined in IC 24-4.5-8-103)**, or mortgage
 11 transactions:

12 (a) The making of consumer loans.

13 (b) Taking assignments of consumer loans.

14 (c) Undertaking the direct collection of payments from or the
 15 enforcement of rights against debtors arising from consumer
 16 loans.

17 (4) A separate license under this chapter is required for each legal
 18 entity that engages in Indiana in any activity described in subsection
 19 (3). However, a separate license under this chapter is not required for
 20 each branch of a legal entity licensed under this chapter to perform an
 21 activity described in subsection (3).

22 (5) Except as otherwise provided in subsections (1) and (2), a
 23 separate license under IC 24-4.5-7 is required in order to regularly
 24 engage in Indiana in the following actions with respect to small loans
 25 (as defined in IC 24-4.5-7-104) **or installment small loans (as defined**
 26 **in IC 24-4.5-8-103)**:

27 (a) The making of small loans (as defined in IC 24-4.5-7-104) **or**
 28 **installment small loans (as defined in IC 24-4.5-8-103).**

29 (b) Taking assignments of small loans (as defined in
 30 IC 24-4.5-7-104) **or installment small loans (as defined in**
 31 **IC 24-4.5-8-103).**

32 (c) Undertaking the direct collection of payments from or the
 33 enforcement of rights against debtors arising from small loans (as
 34 defined in IC 24-4.5-7-104) **or installment small loans (as**
 35 **defined in IC 24-4.5-8-103).**

36 A person that seeks licensure under IC 24-4.5-7 in order to regularly
 37 engage in Indiana in the actions set forth in this subsection shall apply
 38 to the department for that license in the form and manner prescribed by
 39 the department, and is subject to the same licensure requirements and
 40 procedures as an applicant for a license to make consumer loans (other
 41 than small loans, **installment small loans**, or mortgage transactions)
 42 under this section.



1 (6) A CPAP contract must comply with IC 24-12-2.

2 SECTION 2. IC 24-4.5-3-502.2, AS ADDED BY P.L.137-2014,
3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 502.2. (1) Subject to subsection (6), the director
5 may designate the NMLSR to serve as the sole entity responsible for:

6 (a) processing applications and renewals for licenses required
7 under section 502 of this chapter;

8 (b) issuing unique identifiers for licensees and entities exempt
9 from licensing under section 502 of this chapter; and

10 (c) performing other services that the director determines are
11 necessary for the orderly administration of the department's
12 licensing system under section 502 of this chapter.

13 (2) Subject to the confidentiality provisions contained in IC 5-14-3,
14 this section, and IC 28-1-2-30, the director shall regularly report to the
15 NMLSR significant or recurring violations of this article related to
16 consumer loans that are not mortgage transactions, including small
17 loans under IC 24-4.5-7 **and installment small loans under**
18 **IC 24-4.5-8.**

19 (3) Subject to the confidentiality provisions contained in IC 5-14-3,
20 this section, and IC 28-1-2-30, the director may report to the NMLSR
21 complaints received regarding licensees under section 502 of this
22 chapter in connection with consumer loans that are not mortgage
23 transactions, including small loans under IC 24-4.5-7 **and installment**
24 **small loans under IC 24-4.5-8.**

25 (4) The director may report to the NMLSR publicly adjudicated
26 licensure actions against licensees under section 502 of this chapter.

27 (5) The director shall establish a process in which persons licensed
28 in accordance with section 502 of this chapter may challenge
29 information reported to the NMLSR by the department.

30 (6) The director's authority to designate the NMLSR under
31 subsection (1) is subject to the following:

32 (a) Information stored in the NMLSR is subject to the
33 confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A
34 person may not:

35 (i) obtain information from the NMLSR unless the person is
36 authorized to do so by statute;

37 (ii) initiate any civil action based on information obtained
38 from the NMLSR if the information is not otherwise available
39 to the person under any other state law; or

40 (iii) initiate any civil action based on information obtained
41 from the NMLSR if the person could not have initiated the
42 action based on information otherwise available to the person



- 1 under any other state law.
- 2 (b) Documents, materials, and other forms of information in the
3 control or possession of the NMLSR that are confidential under
4 IC 28-1-2-30 and that are:
- 5 (i) furnished by the director, the director's designee, or a
6 licensee; or
- 7 (ii) otherwise obtained by the NMLSR;
- 8 are confidential and privileged by law and are not subject to
9 inspection under IC 5-14-3, subject to subpoena, subject to
10 discovery, or admissible in evidence in any civil action. However,
11 the director may use the documents, materials, or other
12 information available to the director in furtherance of any action
13 brought in connection with the director's duties under this article.
- 14 (c) Disclosure of documents, materials, and information:
- 15 (i) to the director; or
- 16 (ii) by the director;
- 17 under this subsection does not result in a waiver of any applicable
18 privilege or claim of confidentiality with respect to the
19 documents, materials, or information.
- 20 (d) Information provided to the NMLSR is subject to IC 4-1-11.
- 21 (e) This subsection does not limit or impair a person's right to:
- 22 (i) obtain information;
- 23 (ii) use information as evidence in a civil action or proceeding;
- 24 or
- 25 (iii) use information to initiate a civil action or proceeding;
- 26 if the information may be obtained from the director or the
27 director's designee under any law.
- 28 (f) The requirements under any federal law or IC 5-14-3 regarding
29 the privacy or confidentiality of any information or material
30 provided to the NMLSR, and any privilege arising under federal
31 or state law, including the rules of any federal or state court, with
32 respect to the information or material, continue to apply to the
33 information or material after the information or material has been
34 disclosed to the NMLSR. The information and material may be
35 shared with all state and federal regulatory officials with financial
36 services industry oversight authority without the loss of privilege
37 or the loss of confidentiality protections provided by federal law
38 or IC 5-14-3.
- 39 (g) For purposes of this section, the director may enter agreements
40 or sharing arrangements with other governmental agencies, the
41 Conference of State Bank Supervisors, or other associations
42 representing governmental agencies as established by rule or



1 order of the director.

2 (h) Information or material that is subject to a privilege or
3 confidentiality under subdivision (f) is not subject to:

4 (i) disclosure under any federal or state law governing the
5 disclosure to the public of information held by an officer or an
6 agency of the federal government or the respective state; or

7 (ii) subpoena, discovery, or admission into evidence, in any
8 private civil action or administrative process, unless with
9 respect to any privileged information or material held by the
10 NMLSR, the person to whom the information or material
11 pertains waives, in whole or in part, in the discretion of the
12 person, that privilege.

13 (i) Any provision of IC 5-14-3 that concerns the disclosure of:

14 (i) confidential supervisory information; or

15 (ii) any information or material described in subdivision (f);
16 and that is inconsistent with subdivision (f) is superseded by this
17 section.

18 (j) This section does not apply with respect to information or
19 material that concerns the employment history of, and publicly
20 adjudicated disciplinary and enforcement actions against, a
21 person licensed in accordance with section 502 of this chapter and
22 described in section 503(2) of this chapter and that is included in
23 the NMLSR for access by the public.

24 (k) The director may require a licensee required to submit
25 information to the NMLSR to pay a processing fee considered
26 reasonable by the director. In determining whether an NMLSR
27 processing fee is reasonable, the director shall:

28 (i) require review of; and

29 (ii) make available;

30 the audited financial statements of the NMLSR.

31 (7) Notwithstanding any other provision of law, any:

32 (a) application, renewal, or other form or document that:

33 (i) relates to licenses issued under section 502 of this chapter;
34 and

35 (ii) is made or produced in an electronic format;

36 (b) document filed as an electronic record in a multistate
37 automated repository established and operated for the licensing or
38 registration of financial services entities and their employees; or

39 (c) electronic record filed through the NMLSR;

40 is considered a valid original document when reproduced in paper form
41 by the department.

42 SECTION 3. IC 24-4.5-7-102, AS AMENDED BY P.L.69-2018,



1 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 102. (1) Except as otherwise provided, all
3 provisions of this article applying to consumer loans, including
4 IC 24-4.5-3-502.2, apply to:

- 5 (a) small loans (as defined in **section 104** of this chapter); and
6 (b) **installment small loans (as defined in IC 24-4.5-8-103).**

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

10 (a) The making of :

- 11 (i) small loans **under this chapter; or**
12 (ii) **installment small loans under IC 24-4.5-8.**

13 (b) Taking assignments of:

- 14 (i) small loans **under this chapter; or**
15 (ii) **installment small loans under IC 24-4.5-8.**

16 (c) Undertaking the direct collection of payments from or the
17 enforcement of rights against debtors arising from:

- 18 (i) small loans **under this chapter; or**
19 (ii) **installment small loans under IC 24-4.5-8.**

20 (3) Subject to subsection (4), a person that seeks licensure under
21 this chapter:

22 (a) shall apply to the department for a license in the form and
23 manner prescribed by the department; and

24 (b) is subject to the same licensure requirements and procedures
25 as an applicant for a license to make consumer loans (other than
26 mortgage transactions) under IC 24-4.5-3-502.

27 (4) A person that seeks to make, take assignments of, or undertake
28 the direct collection of payments from or the enforcement of rights
29 against debtors arising from both:

30 (a) small loans under this chapter **or installment small loans**
31 **under IC 24-4.5-8; and**

32 (b) consumer loans (other than mortgage transactions) that are not
33 small loans **or installment small loans;**

34 must obtain a separate license from the department for **each type of**
35 **loan, loans described in subdivision (a) and loans described in**
36 **subdivision (b)** as described in IC 24-4.5-3-502(5).

37 (5) This chapter applies to:

38 (a) a lender;

39 (b) a bank, savings association, credit union, or other state or
40 federally regulated financial institution except those that are
41 specifically exempt regarding limitations on interest rates and
42 fees; or



- 1 (c) a person, if the department determines that a transaction is:
 2 (i) in substance a disguised loan; or
 3 (ii) the application of subterfuge for the purpose of avoiding
 4 this chapter.

5 **Except as otherwise provided in this chapter, this chapter does not**
 6 **apply to the activities described in subsection (4) with a respect to**
 7 **an installment small loan.**

8 (6) A loan that:

- 9 (a) does not qualify as a small loan under section 104 of this
 10 chapter;
 11 (b) is for a term shorter than that specified in section 401(1) of
 12 this chapter; or
 13 (c) is made in violation of section 201, 401, 402, 404, or 410 of
 14 this chapter;

15 is subject to this article. The department may conform the loan finance
 16 charge for a loan described in this subsection to the limitations set forth
 17 in IC 24-4.5-3-508(2).

18 (7) A loan that:

- 19 (a) **does not qualify as an installment small loan under**
 20 **IC 24-4.5-8-103;**
 21 (b) **is for a term shorter than that specified in**
 22 **IC 24-4.5-8-103(1)(b); or**
 23 (c) **is made in violation of IC 24-4.5-8-108 or IC 24-4.5-8-111;**

24 **is subject to this article. The department may conform the loan**
 25 **finance charge for a loan described in this subsection to the**
 26 **limitations set forth in IC 24-4.5-3-508(2).**

27 ~~(7)~~ (8) Notwithstanding IC 24-4.5-1-301.5, for purposes of
 28 subsection (2), a person "regularly engages" in any of the activities
 29 described in subsection (2) with respect to a small loan **or an**
 30 **installment small loan** if the person:

- 31 (a) performed any of the activities described in subsection (2)
 32 with respect to a small loan **or an installment small loan** at least
 33 one (1) time in the preceding calendar year; or
 34 (b) performs or will perform any of the activities described in
 35 subsection (2) with respect to a small loan **or an installment**
 36 **small loan** at least one (1) time in the current calendar year if the
 37 person did not perform any of the activities described in
 38 subsection (2) with respect to a small loan **or an installment**
 39 **small loan** at least one (1) time in the preceding calendar year.

40 SECTION 4. IC 24-4.5-7-111, AS AMENDED BY P.L.186-2015,
 41 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2019]: Sec. 111. "Lender" means a person that acquires and



1 retains a license issued by the department of financial institutions under
2 this chapter to engage in:

3 (a) small loans **under this chapter; or**

4 (b) **installment small loans under IC 24-4.5-8.**

5 SECTION 5. IC 24-4.5-7-301, AS AMENDED BY P.L.69-2018,
6 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 301. (1) For purposes of this section, the lender
8 shall disclose to the borrower to whom credit is extended with respect
9 to a small loan **or an installment small loan** the information required
10 by the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

11 (2) In addition to the requirements of subsection (1), the lender must
12 conspicuously display in bold type a notice to the public both in the
13 lending area of each business location and in the loan documents the
14 following statement:

15 "WARNING: A small loan **or an installment small loan** is not
16 intended to meet long term financial needs. A small loan **or an**
17 **installment small loan** should be used only to meet short term
18 cash needs. The cost of your small loan **or installment small loan**
19 may be higher than loans offered by other lending institutions.
20 Small loans **and installment small loans** are regulated by the
21 State of Indiana Department of Financial Institutions.

22 A borrower may rescind a small loan **or an installment small**
23 **loan** without cost by paying the cash amount of the principal of
24 the ~~small~~ loan to the lender not later than the end of the business
25 day immediately following the day on which the borrower
26 receives the loan proceeds."

27 (3) The statement required in subsection (2) must be in:

28 (a) 14 point bold face type in the loan documents; and

29 (b) not less than one (1) inch bold print in the lending area of the
30 business location.

31 (4) When a borrower enters into a small loan **or an installment**
32 **small loan**, the lender shall provide the borrower with a pamphlet
33 approved by the department that describes:

34 (a) the availability of debt management and credit counseling
35 services; and

36 (b) the borrower's rights and responsibilities in the transaction.

37 SECTION 6. IC 24-4.5-7-405, AS AMENDED BY P.L.159-2017,
38 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2019]: Sec. 405. (1) This section does not apply to a business
40 that is licensed by the department for a purpose other than consumer
41 loans.

42 (2) A licensee may carry on other business at a location where the



1 licensee makes small loans **or installment small loans** unless the
 2 licensee carries on other business for the purpose of evasion or
 3 violation of this article.

4 SECTION 7. IC 24-4.5-7-413, AS AMENDED BY P.L.216-2013,
 5 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2019]: Sec. 413. (1) A person engaged in making small loans
 7 under this chapter **or installment small loans under IC 24-4.5-8** shall
 8 post a bond to the department in ~~the~~ **an** amount, **determined by the**
 9 **director**, of:

10 (a) **at least** fifty thousand dollars (\$50,000) for each location
 11 where small loans **or installment small loans** will be made; ~~up~~
 12 ~~to~~ **and**

13 (b) **not more than** a maximum bond in an amount determined by
 14 the director.

15 (2) A surety bond issued under this section must:

16 (a) provide coverage for a lender engaged in making small loans
 17 under this chapter **or small installment loans under IC 24-4.5-8**
 18 in an amount as prescribed in subsection (1);

19 (b) be in a form prescribed by the director;

20 (c) be in effect during the term of the lender's license under this
 21 chapter;

22 (d) remain in effect during the two (2) years after the lender
 23 ceases offering financial services to individuals in Indiana;

24 (e) be payable to the department for the benefit of:

25 (i) the state; and

26 (ii) individuals who reside in Indiana when they agree to
 27 receive financial services from the lender;

28 (f) be issued by a bonding, surety, or insurance company
 29 authorized to do business in Indiana and rated at least "A-" by at
 30 least one (1) nationally recognized investment rating service; and

31 (g) have payment conditioned upon the lender's or any of the
 32 lender's employees' or agents' noncompliance with or violation of
 33 this article or other applicable federal or state laws or regulations.

34 (3) The director may adopt rules or guidance documents with
 35 respect to the requirements for a surety bond as necessary to
 36 accomplish the purposes of this chapter.

37 (4) If the principal amount of a surety bond required under this
 38 section is reduced by payment of a claim or judgment, the lender for
 39 whom the bond is issued shall immediately notify the director of the
 40 reduction and, not later than thirty (30) days after notice by the
 41 director, file a new or an additional surety bond in an amount set by the
 42 director. The amount of the new or additional bond set by the director



1 must be at least the amount of the bond before payment of the claim or
2 judgment.

3 (5) If for any reason a surety terminates a bond issued under this
4 section, the lender shall immediately notify the department and file a
5 new surety bond in an amount as prescribed in subsection (1).

6 (6) Cancellation of a surety bond issued under this section does not
7 affect any liability incurred or accrued during the period when the
8 surety bond was in effect.

9 (7) The director may obtain satisfaction from a surety bond issued
10 under this section if the director incurs expenses, issues a final order,
11 or recovers a final judgment under this chapter.

12 (8) Notices required under this section must be in writing and
13 delivered by certified mail, return receipt requested and postage
14 prepaid, or by overnight delivery using a nationally recognized carrier.

15 SECTION 8. IC 24-4.5-8 IS ADDED TO THE INDIANA CODE
16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2019]:

18 **Chapter 8. Installment Small Loans**

19 **Sec. 101. This chapter shall be known and may be cited as**
20 **Uniform Consumer Credit Code — Installment Small Loans.**

21 **Sec. 102. As used in this chapter, "department" refers to the**
22 **department of financial institutions established by IC 28-11-1-1.**

23 **Sec. 103. (1) As used in this chapter, "installment small loan"**
24 **means a loan:**

25 (a) with a principal loan amount that is:

26 (i) more than fifty dollars (\$50) and not more than one
27 thousand eight hundred dollars (\$1,800);

28 (ii) fully amortizing; and

29 (iii) repayable in substantially equal and consecutive
30 installments according to a payment schedule agreed to by
31 the parties, but with not less than thirteen (13) days and
32 not more than one (1) month between installments;

33 (b) that has a term agreed to by the parties of not less than
34 one hundred twelve (112) days and not more than one
35 hundred eighty (180) days;

36 (c) in which the lender holds one (1) or more checks of the
37 borrower for a specific period, or receives the borrower's
38 written authorization to debit the borrower's account (other
39 than as a result of default) on one (1) or more occasions under
40 an agreement, either express or implied, for a specific period,
41 before the lender:

42 (i) offers one (1) or more checks of the borrower for



- 1 deposit or presentment; or
 2 (ii) exercises an authorization to debit the borrower's
 3 account; and
 4 (d) in which:
 5 (i) a check of the borrower; or
 6 (ii) an authorization to debit the borrower's account;
 7 described in subdivision (c) does not constitute security for the
 8 loan.
 9 (2) The term does not include a consumer loan made under
 10 IC 24-4.5-3.
 11 Sec. 104. For purposes of this chapter, "lender" has the meaning
 12 set forth in IC 24-4.5-7-111.
 13 Sec. 105. As used in this chapter, "original loan" means a loan
 14 in which none of the proceeds are used by the licensee to pay off the
 15 outstanding balance of another installment small loan made to the
 16 same consumer by the same licensee or an employee or affiliate of
 17 the licensee.
 18 Sec. 106. As used in this chapter, "paid in full", with respect to
 19 an installment small loan, means the termination of the installment
 20 small loan through:
 21 (a) the presentment of one (1) or more of the borrower's
 22 checks for payment by the drawee bank, or the exercise by the
 23 lender of one (1) or more authorizations to debit an account
 24 of the borrower; or
 25 (b) the return of one (1) or more checks to a borrower who
 26 redeems them for consideration.
 27 Sec. 107. (1) An installment small loan may be refinanced by a
 28 new installment small loan one (1) time during the term of the
 29 original loan. However, the total duration of indebtedness on the
 30 original loan combined with the total term of indebtedness of the
 31 new installment small loan may not exceed one hundred eighty
 32 (180) days.
 33 (2) For purposes of this chapter, a refinancing occurs when an
 34 original installment small loan is:
 35 (a) satisfied; and
 36 (b) replaced;
 37 by a new installment small loan made to the same consumer by the
 38 same licensee or an employee or affiliate of the licensee.
 39 Sec. 108. (1) With respect to an installment small loan, a lender
 40 may contract for a loan finance charge of not more than fifteen
 41 dollars (\$15) per one hundred dollars (\$100) on the initial principal
 42 balance and on the principal balances scheduled to be outstanding



1 during any installment period.

2 (2) For purposes of determining the loan finance charge earned
3 on an installment small loan, the disclosed annual percentage rate
4 shall be applied to the principal balances outstanding from time to
5 time until the loan is paid in full, or until the maturity date,
6 whichever occurs first. A finance charge may not be imposed after
7 the final scheduled maturity date.

8 (3) Whenever an installment small loan is paid in full, the
9 licensee shall refund any unearned loan finance charge in
10 accordance with IC 24-4.5-3-210.

11 Sec. 109. In addition to the loan finance charge, a lender may
12 charge, contract for, and receive only the following charges and
13 fees:

14 (a) Any additional charges applicable to a consumer loan in
15 accordance with IC 24-4.5-3-202.

16 (b) A delinquency charge in accordance with
17 IC 24-4.5-3-203.5.

18 Sec. 110. (1) This section applies to licensees and unlicensed
19 persons.

20 (2) A person who violates this chapter:

21 (a) is subject to the remedies provided in IC 24-4.5-5-202;

22 (b) commits a deceptive act under IC 24-5-0.5 and is subject
23 to the penalties listed in IC 24-5-0.5;

24 (c) has no right to collect, receive, or retain any principal,
25 interest, or other charges from an installment small loan; and

26 (d) is liable to the borrower for actual damages, statutory
27 damages of two thousand dollars (\$2,000) per violation, costs,
28 and attorney's fees.

29 However, subdivisions (c) and (d) do not apply if the violation is the
30 result of an accident or bona fide error of computation. The
31 remedies described in this subsection are in addition to all other
32 remedies set forth in this article.

33 (3) The department may sue:

34 (a) to enjoin conduct that constitutes or will constitute a
35 violation of this chapter; and

36 (b) for other equitable relief.

37 (4) The remedies provided in this section are cumulative, but are
38 not intended to be the exclusive remedies available to a borrower.
39 A borrower is not required to exhaust any administrative remedies
40 under this chapter or any other law.

41 Sec. 111. A lender that makes installment small loans, or an
42 assignee of an installment small loan, shall not commit nor cause



- 1 to be committed any of the following:
- 2 (a) Threatening to use or using the criminal process in any
- 3 state to collect on an installment small loan.
- 4 (b) Threatening to take action against a borrower that is
- 5 prohibited by this chapter.
- 6 (c) Making a misleading or deceptive statement regarding
- 7 any:
- 8 (i) installment small loan; or
- 9 (ii) consequence of taking any installment small loan.
- 10 (d) Altering the date or other information on a check or an
- 11 authorization to debit a borrower's account held by the lender
- 12 or assignee.
- 13 (e) Engaging in unfair, deceptive, or fraudulent practices in
- 14 the making or collecting of an installment small loan.
- 15 (f) Including any of the following provisions in a loan
- 16 document:
- 17 (i) A hold harmless clause.
- 18 (ii) A confession of judgment clause.
- 19 (iii) An assignment of or order for payment of wages or
- 20 other compensation for services.
- 21 (iv) A provision under which the borrower agrees not to
- 22 assert a claim or defense arising out of contract.
- 23 (v) A waiver of a provision of this chapter.

