

SENATE BILL No. 388

DIGEST OF SB 388 (Updated January 29, 1998 3:26 pm - DI 94)

Citations Affected: IC 24-4.5-2-201.

Synopsis: Uniform consumer credit code. Provides that the date of sale for a consumer credit sale other than a revolving charge account sale is the date that credit is granted unless the delivery of goods is more than 30 days after the date that the credit is granted, except: (1) when the delay beyond 30 days is attributable to the customer, or (2) when a partial delivery of the goods occurs. (Current law provides the date of the sale is the date that credit is granted unless the delivery of goods, or the performance of services commences more than ten days after the date that credit is granted.)

Effective: July 1, 1998.

Paul

January 12, 1998, read first time and referred to Committee on Financial Institutions.
January 22, 1998, reported favorably — Do Pass.
January 29, 1998, read second time, amended, ordered engrossed.

SB 388—LS 7164/DI 94



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Reprinted
January 30, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 388

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

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

1 SECTION 1. IC 24-4.5-2-201 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 201. Credit Service
3 Charge for Consumer Credit Sales other than Revolving Charge
4 Accounts-(1) With respect to a consumer credit sale, other than a sale
5 pursuant to a revolving charge account, a seller may contract for and
6 receive a credit service charge not exceeding that permitted by this
7 section.

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

- 11 (a) the total of:
- 12 (i) thirty-six percent (36%) per year on that part of the unpaid
 - 13 balances of the amount financed which is three hundred
 - 14 dollars (\$300) or less;
 - 15 (ii) twenty-one percent (21%) per year on that part of the
 - 16 unpaid balances of the amount financed which is more than
 - 17 three hundred dollars (\$300) but does not exceed one thousand

SB 388—LS 7164/DI 94



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- 1 dollars (\$1,000); and
 2 (iii) fifteen percent (15%) per year on that part of the unpaid
 3 balances of the amount financed which is more than one
 4 thousand dollars (\$1,000); or
 5 (b) twenty-one percent (21%) per year on the unpaid balances of
 6 the amount financed.
- 7 (3) This section does not limit or restrict the manner of contracting
 8 for the credit service charge, whether by way of add-on, discount, or
 9 otherwise, so long as the rate of the credit service charge does not
 10 exceed that permitted by this section. If the sale is precomputed:
 11 (a) the credit service charge may be calculated on the assumption
 12 that all scheduled payments will be made when due; and
 13 (b) the effect of prepayment is governed by the provisions on
 14 rebate upon prepayment (IC 24-4.5-2-210).
- 15 (4) For the purposes of this section, the term of a sale agreement
 16 commences with the date the credit is ~~granted~~ **granted** or, if goods are
 17 delivered or services performed ~~ten (10) days or more~~ **more than 30**
 18 **days after that date, after that date**; with the date of commencement
 19 of delivery or performance: ~~except as set forth below~~:
 20 (a) **Delays attributable to the customer. Where the customer**
 21 **requests delivery after the 30-day period or where delivery**
 22 **occurs after the 30-day period for a reason attributable to the**
 23 **customer (including but not limited to failure to close on a**
 24 **residence or failure to obtain lease approval), the term of the**
 25 **sale agreement shall commence with the date credit is**
 26 **granted.**
 27 (b) **Partial Deliveries. Where any portion of the order has**
 28 **been delivered within the 30-day period, the term of the sale**
 29 **agreement shall commence with the date credit is granted.**
- 30 Differences in the lengths of months are disregarded and a day may be
 31 counted as one-thirtieth (1/30) of a month. Subject to classifications
 32 and differentiations the seller may reasonably establish, a part of a
 33 month in excess of fifteen (15) days may be treated as a full month if
 34 periods of fifteen (15) days or less are disregarded and that procedure
 35 is not consistently used to obtain a greater yield than would otherwise
 36 be permitted.
- 37 (5) Subject to classifications and differentiations the seller may
 38 reasonably establish, he may make the same credit service charge on
 39 all amounts financed within a specified range. A credit service charge
 40 so made does not violate subsection (2) if:
 41 (a) when applied to the median amount within each range, it does
 42 not exceed the maximum permitted by subsection (2); and

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1 (b) when applied to the lowest amount within each range, it does
2 not produce a rate of credit service charge exceeding the rate
3 calculated according to paragraph (a) by more than eight percent
4 (8%) of the rate calculated according to paragraph (a).
5 (6) Notwithstanding subsection (2), the seller may contract for and
6 receive a minimum credit service charge of not more than thirty dollars
7 (\$30).
8 (7) The amounts of three hundred dollars (\$300) and one thousand
9 dollars (\$1,000) in subsection (2) are subject to change pursuant to the
10 provisions on adjustment of dollar amounts (IC 24-4.5-1-106).
11 (8) The amount of thirty dollars (\$30) in subsection (6) is subject to
12 change under the provisions on adjustment of dollar amounts
13 (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
14 Reference Base Index to be used under this subsection is the Index for
15 October 1992.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Financial Institutions, to which was referred Senate Bill 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 388 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 6, Nays 3.

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SENATE MOTION

Mr. President: I move that Senate Bill 388 be amended to read as follows:

Page 2, line 16, strike "granted." and insert "**granted**".

Page 2, line 16, reset in roman "or, if goods are".

Page 2, line 17, reset in roman "delivered or services performed".

Page 2, line 17, after "~~more~~" insert "**more than 30 days after that date,**".

Page 2, reset in roman line 18.

Page 2, line 18, strike "." and insert "**except as set forth below:**

(a) Delays attributable to the customer. Where the customer requests delivery after the 30-day period or where delivery occurs after the 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 30-day period, the term of the sale agreement shall commence with the date credit is granted."

(Reference is to Senate Bill 388 as printed January 23, 1998.)

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