

SENATE BILL No. 545

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5-3-201.

Synopsis: Consumer loan origination fees. Applies the loan origination fee of not more than two percent of the loan amount or line of credit to revolving and nonrevolving consumer loan accounts. (Current law applies the loan origination fee to a consumer loan that is primarily secured by an interest in land.)

Effective: July 1, 1999.

Server, Lutz L

January 20, 1999, read first time and referred to Committee on Insurance and Financial Institutions.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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SENATE BILL No. 545

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

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

- 1 SECTION 1. IC 24-4.5-3-201 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 201. Loan Finance
3 Charge for Consumer Loans other than Supervised Loans) (1) Except
4 as provided in subsections (6) and (8), with respect to a consumer loan
5 other than a supervised loan (IC 24-4.5-3-501), a lender may contract
6 for a loan finance charge, calculated according to the actuarial method,
7 not exceeding twenty-one percent (21%) per year on the unpaid
8 balances of the principal.
- 9 (2) This section does not limit or restrict the manner of contracting
10 for the loan finance charge, whether by way of add-on, discount, or
11 otherwise, so long as the rate of the loan finance charge does not
12 exceed that permitted by this section. If the loan is precomputed:
- 13 (a) the loan finance charge may be calculated on the assumption
14 that all scheduled payments will be made when due; and
15 (b) the effect of prepayment is governed by the provisions on
16 rebate upon prepayment (IC 24-4.5-3-210).
- 17 (3) For the purposes of this section, the term of a loan commences



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

10 (4) With respect to a consumer loan made pursuant to a revolving
11 loan account:

12 (a) the loan finance charge shall be deemed not to exceed the
13 maximum annual percentage rate if the loan finance charge
14 contracted for and received does not exceed a charge in each
15 monthly billing cycle which is one and three-fourths percent
16 (1 3/4%) of an amount no greater than:

17 (i) the average daily balance of the debt;

18 (ii) the unpaid balance of the debt on the same day of the
19 billing cycle; or

20 (iii) subject to subsection (5), the median amount within a
21 specified range within which the average daily balance or the
22 unpaid balance of the debt, on the same day of the billing
23 cycle, is included; for the purposes of this subparagraph and
24 subparagraph (ii), a variation of not more than four (4) days
25 from month to month is "the same day of the billing cycle";

26 (b) if the billing cycle is not monthly, the loan finance charge
27 shall be deemed not to exceed the maximum annual percentage
28 rate if the loan finance charge contracted for and received does
29 not exceed a percentage which bears the same relation to
30 one-twelfth (1/12) the maximum annual percentage rate as the
31 number of days in the billing cycle bears to thirty (30); and

32 (c) notwithstanding subsection (1), if there is an unpaid balance
33 on the date as of which the loan finance charge is applied, the
34 lender may contract for and receive a charge not exceeding fifty
35 cents (\$0.50) if the billing cycle is monthly or longer, or the pro
36 rata part of fifty cents (\$0.50) which bears the same relation to
37 fifty cents (\$0.50) as the number of days in the billing cycle bears
38 to thirty (30) if the billing cycle is shorter than monthly, but no
39 charge may be made pursuant to this paragraph if the lender has
40 made an annual charge for the same period as permitted by the
41 provisions on additional charges (paragraph (c) of subsection (1)
42 of IC 24-4.5-3-202).

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

5 (a) when applied to the median amount within each range, it does
 6 not exceed the maximum permitted by subsection (1); and

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

11 (6) With respect to a consumer loan not made pursuant to a
 12 revolving loan account, the lender may contract for and receive a
 13 minimum loan finance charge of not more than thirty dollars (\$30).

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

19 (8) In addition to the loan finance charge provided for in this
 20 section, a lender may contract for the following:

21 (a) With respect to a consumer loan ~~that is primarily secured by~~
 22 ~~an interest in land and~~ that is not made under a revolving loan
 23 account, a loan origination fee of not more than two percent (2%)
 24 of the loan amount.

25 (b) With respect to a consumer loan ~~that is primarily secured by~~
 26 ~~an interest in land and~~ that is made under a revolving loan
 27 account, a loan origination fee of not more than two percent (2%)
 28 of the line of credit that was contracted for.

29 (9) The charges provided for in subsection (8):

30 (a) are not subject to refund or rebate; and

31 (b) are not permitted if a lender makes a settlement charge under
 32 IC 24-4.5-3-202(d)(ii).

33 This subsection does not prohibit a lender from contracting for and
 34 receiving a fee for preparing deeds, mortgages, reconveyance, and
 35 similar documents under IC 24-4.5-3-202(d)(ii), in addition to the
 36 charges provided for in subsection (8).

37 **SECTION 2. [EFFECTIVE JULY 1, 1999] IC 24-4.5-3-201, as**
 38 **amended by this act, does not apply to consumer loans in existence**
 39 **before July 1, 1999.**

