

SENATE BILL No. 261

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5-3-209.

Synopsis: Determination of total finance charge. Excludes any prepaid finance charge paid to a third party from the determination of total finance charge for the purpose of prepayment of a consumer loan.

Effective: July 1, 2001.

Nugent

January 11, 2001, read first time and referred to Committee on Insurance and Financial Institutions.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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SENATE BILL No. 261



A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

1 SECTION 1. IC 24-4.5-3-209, AS AMENDED BY P.L.23-2000,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 209. Right to Prepay - (1) Subject to the
4 provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor
5 may prepay in full the unpaid balance of a consumer loan, refinancing,
6 or consolidation at any time without penalty. With respect to a
7 consumer loan that is primarily secured by an interest in land, a lender
8 may contract for a penalty for prepayment of the loan in full, not to
9 exceed two percent (2%) of the net unpaid balance after deducting all
10 refunds and rebates as of the date of the prepayment. However, the
11 penalty may not be imposed:
12 (a) if the loan is refinanced or consolidated with the same
13 creditor;
14 (b) for prepayment by proceeds of any insurance or acceleration
15 after default; or
16 (c) after three (3) years from the contract date.
17 (2) At the time of prepayment of a consumer loan not subject to the



1 provisions of rebate upon prepayment (IC 24-4.5-3-210), the total
 2 finance charge, including the prepaid finance charge but excluding **any**
 3 **prepaid finance charge paid to a third party and** the loan origination
 4 fee allowed under IC 24-4.5-3-201, may not exceed the maximum
 5 charge allowed under this chapter for the period the loan was in effect.

6 (3) The creditor or mortgage servicer shall provide an accurate
 7 payoff of the consumer loan to the debtor within ten (10) calendar days
 8 after the creditor or mortgage servicer receives the debtor's written
 9 request for the accurate consumer loan payoff amount. A creditor or
 10 mortgage servicer who fails to provide the accurate consumer loan
 11 payoff amount is liable for:

12 ~~(A)~~ **(a)** one hundred dollars (\$100) if an accurate consumer loan
 13 payoff amount is not provided by the creditor or mortgage
 14 servicer within ten (10) calendar days after the creditor or
 15 mortgage servicer receives the debtor's first written request; and

16 **(B) (b)** the greater of:

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

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

22 if an accurate consumer loan payoff amount is not provided by the
 23 creditor or mortgage servicer within ten (10) calendar days after
 24 the creditor or mortgage servicer receives the debtor's second
 25 written request, and the creditor or mortgage servicer failed to
 26 comply with ~~clause (A):~~ **subdivision (a)**.

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

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