

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1083 be amended to read as follows:

- 1 Page 1, line 9, after "greater of" insert ":".
- 2 Page 1, line 9, strike "either of the".
- 3 Page 1, strike line 10.
- 4 Page 2, line 14, strike "(IC 24-4.5-2-210)." and insert "**in section**
- 5 **210 of this chapter.**"
- 6 Page 3, line 21, after "(IC 24-4.5-1-106)." insert "**However,**
- 7 **notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be**
- 8 **used under this subsection is the Index for October 2012.**"
- 9 Page 3, delete lines 27 through 42, begin a new paragraph and
- 10 insert:
- 11 "SECTION 2. IC 24-4.5-3-201, AS AMENDED BY P.L.145-2008,
- 12 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2013]: Sec. 201. Loan Finance Charge for Consumer Loans
- 14 other than Supervised Loans—(1) Except as provided in subsections
- 15 (6) and (8), with respect to a consumer loan other than a supervised
- 16 loan (~~IC 24-4.5-3-501~~), **(as defined in section 501 of this chapter)**, a
- 17 lender may contract for a loan finance charge, calculated according to
- 18 the actuarial method, not exceeding ~~twenty-one~~ **twenty-five** percent
- 19 (~~21%~~) **(25%)** per year on the unpaid balances of the principal.
- 20 (2) This section does not limit or restrict the manner of contracting
- 21 for the loan finance charge, whether by way of add-on, discount, or
- 22 otherwise, so long as the rate of the loan finance charge does not
- 23 exceed that permitted by this section. If the loan is precomputed:
- 24 (a) the loan finance charge may be calculated on the assumption

1 that all scheduled payments will be made when due; and
 2 (b) the effect of prepayment is governed by the provisions on
 3 rebate upon prepayment (~~IC 24-4.5-3-210~~); **in section 210 of this**
 4 **chapter.**

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

15 (4) With respect to a consumer loan made pursuant to a revolving
 16 loan account:

17 (a) the loan finance charge shall be deemed not to exceed the
 18 maximum annual percentage rate if the loan finance charge
 19 contracted for and received does not exceed a charge in each
 20 monthly billing cycle which is ~~one two and three-fourths~~
 21 **eighty-three thousandths** percent (~~† 3/4%~~) **(2.083%)** of a
 22 amount not greater than:

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

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

38 (c) notwithstanding subsection (1), if there is an unpaid balance
 39 on the date as of which the loan finance charge is applied, the
 40 lender may contract for and receive a charge not exceeding fifty
 41 cents (\$0.50) if the billing cycle is monthly or longer, or the pro
 42 rata part of fifty cents (\$0.50) which bears the same relation to
 43 fifty cents (\$0.50) as the number of days in the billing cycle bears
 44 to thirty (30) if the billing cycle is shorter than monthly, but no
 45 charge may be made pursuant to this paragraph if the lender has
 46 made an annual charge for the same period as permitted by the

- 1 provisions on additional charges (~~paragraph (c) of subsection (1)~~
 2 ~~of IC 24-4.5-3-202)~~. **in section 202(1)(c) of this chapter.**
- 3 (5) Subject to classifications and differentiations the lender may
 4 reasonably establish, **and the lender may** make the same loan finance
 5 charge on all amounts financed within a specified range. A loan finance
 6 charge does not violate subsection (1) if:
- 7 (a) when applied to the median amount within each range, it does
 8 not exceed the maximum permitted by subsection (1); and
 9 (b) when applied to the lowest amount within each range, it does
 10 not produce a rate of loan finance charge exceeding the rate
 11 calculated according to paragraph (a) by more than eight percent
 12 (8%) of the rate calculated according to paragraph (a).
- 13 (6) With respect to a consumer loan not made pursuant to a
 14 revolving loan account, the lender may contract for and receive a
 15 minimum loan finance charge of not more than thirty dollars (\$30). The
 16 minimum loan finance charge allowed under this subsection may be
 17 imposed only if **the lender does not assess a loan origination fee**
 18 **under subsection (8) and:**
- 19 (a) the debtor prepays in full a consumer loan, refinancing, or
 20 consolidation, regardless of whether the loan, refinancing, or
 21 consolidation is precomputed;
 22 (b) the loan, refinancing, or consolidation prepaid by the debtor
 23 is subject to a loan finance charge that:
- 24 (i) is contracted for by the parties; and
 25 (ii) does not exceed the rate prescribed in subsection (1); and
 26 (c) the loan finance charge earned at the time of prepayment is
 27 less than the minimum loan finance charge contracted for under
 28 this subsection.
- 29 (7) The amount of thirty dollars (\$30) in subsection (6) is subject to
 30 change under the provisions on adjustment of dollar amounts
 31 (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
 32 Reference Base Index to be used under this subsection is the Index for
 33 October 1992.
- 34 (8) **Except as provided in subsection (6), in addition to the loan**
 35 **finance charge provided for in this section, any other charges and fees**
 36 **permitted by this chapter, a lender may contract for the following:** (a)
 37 ~~With respect to a consumer loan that is not made under a revolving~~
 38 ~~loan account, a loan origination fee of not more than two percent (2%)~~
 39 ~~of the loan amount. (b) With respect to a consumer loan that is made~~
 40 ~~under a revolving loan account, and receive a loan origination fee of~~
 41 ~~not more than two percent (2%) of the line of credit that was contracted~~
 42 ~~for. fifty dollars (\$50).~~
- 43 (9) The ~~charges fee~~ provided for in subsection (8) ~~(a) are is~~ not
 44 subject to refund or rebate. ~~(b) are not permitted if a lender makes a~~
 45 ~~settlement charge under IC 24-4.5-3-202(d)(ii); and (c) are limited to~~
 46 ~~two percent (2%) of the part of the loan that does not exceed two~~

1 thousand dollars (~~\$2,000~~); if the loan is not primarily secured by an
2 interest in land:

3 (10) Notwithstanding ~~subdivision (a)~~, **subsection (9)**, if a lender
4 retains any part of a loan origination fee charged on a loan that is paid
5 in full by a new loan from the same lender within three (3) months after
6 the date of the prior loan, the lender may **not** charge a loan origination
7 fee **only** on ~~that part of the new loan, not used to pay the amount due on~~
8 ~~the prior loan~~; or, in the case of a revolving loan, ~~the lender may charge~~
9 ~~a loan origination fee only on the difference between the amount of the~~
10 ~~existing credit line and the increased credit line. This subsection does~~
11 ~~not prohibit a lender from contracting for and receiving a fee for~~
12 ~~preparing deeds, mortgages, reconveyance, and similar documents~~
13 ~~under IC 24-4.5-3-202(d)(ii); in addition to the charges provided for in~~
14 ~~subsection (8):~~

15 SECTION 3. IC 24-4.5-3-501 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 501. Definitions:

17 (1) "Supervised loan" means a consumer loan in which the rate of
18 the loan finance charge exceeds ~~twenty-one~~ **twenty-five** percent (~~21%~~)
19 (**25%**) per year as determined according to the provisions on loan
20 finance charge for consumer loans (~~IC 24-4.5-3-201~~): **in section 201**
21 **of this chapter.**

22 (2) "Supervised lender" means a person authorized to make or take
23 assignments of supervised loans.

24 SECTION 4. IC 24-4.5-3-508, AS AMENDED BY P.L.145-2008,
25 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2013]: Sec. 508. Loan Finance Charge for Supervised Loans
27 – (1) With respect to a supervised loan, including a loan pursuant to a
28 revolving loan account, a supervised lender may contract for and
29 receive a loan finance charge not exceeding that permitted by this
30 section.

31 (2) The loan finance charge, calculated according to the actuarial
32 method, may not exceed the equivalent of the greater of: ~~either of the~~
33 ~~following:~~

34 (a) the total of:

35 (i) thirty-six percent (36%) per year on that part of the unpaid
36 balances of the principal which is ~~three hundred two thousand~~
37 ~~dollars (~~\$300~~)~~ (**\$2,000**) or less;

38 (ii) twenty-one percent (21%) per year on that part of the
39 unpaid balances of the principal which is more than ~~three~~
40 ~~hundred two thousand~~ dollars (~~\$300~~) (**\$2,000**) but does not
41 exceed ~~one four~~ thousand dollars (~~\$1,000~~); (**\$4,000**); and

42 (iii) fifteen percent (15%) per year on that part of the unpaid
43 balances of the principal which is more than ~~one four~~
44 ~~thousand dollars (~~\$1000~~)~~; (**\$4,000**); or

45 (b) ~~twenty-one~~ **twenty-five** percent (~~21%~~) (**25%**) per year on the
46 unpaid balances of the principal.

1 (3) This section does not limit or restrict the manner of contracting
 2 for the loan finance charge, whether by way of add-on, discount, or
 3 otherwise, so long as the rate of the loan finance charge does not
 4 exceed that permitted by this section. If the loan is precomputed:

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

7 (b) the effect of prepayment is governed by the provisions on
 8 rebate upon prepayment (~~IC 24-4.5-3-210~~); **in section 210 of this**
 9 **chapter.**

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

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

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

24 (b) when applied to the lowest amount within each range, it does
 25 not produce a rate of loan finance charge exceeding the rate
 26 calculated according to paragraph (a) by more than eight percent
 27 (8%) of the rate calculated according to paragraph (a).

28 (6) The amounts of ~~three hundred two thousand~~ dollars (~~\$300~~)
 29 **(\$2,000)** and ~~one four thousand~~ dollars (~~\$1,000~~) **(\$4,000)** in subsection
 30 (2) and thirty dollars (\$30) in subsection (7) are subject to change
 31 pursuant to the provisions on adjustment of dollar amounts
 32 (IC 24-4.5-1-106). **However, notwithstanding IC 24-4.5-1-106(1), for**
 33 **the adjustment of the amount of thirty dollars (\$30), the Reference**
 34 **Base Index to be used is the Index for October 1992. Notwithstanding**
 35 **IC 24-4.5-1-106(1), for the adjustment of the amounts of two**
 36 **thousand dollars (\$2,000) and four thousand dollars (\$4,000), the**
 37 **Reference Base Index to be used is the Index for October 2012.**

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

44 (a) the debtor prepays in full a consumer loan, refinancing, or
 45 consolidation, regardless of whether the loan, refinancing, or
 46 consolidation is precomputed;

- 1 (b) the loan, refinancing, or consolidation prepaid by the debtor
- 2 is subject to a loan finance charge that:
- 3 (i) is contracted for by the parties; and
- 4 (ii) does not exceed the rate prescribed in subsection (2); and
- 5 (c) the loan finance charge earned at the time of prepayment is
- 6 less than the minimum loan finance charge contracted for under
- 7 this subsection.
- 8 **(8) Except as provided in subsection (7), in addition to any other**
- 9 **charges and fees permitted by this chapter, the lender may**
- 10 **contract for and receive a loan origination fee of not more than**
- 11 **fifty dollars (\$50).**
- 12 **(9) The fee provided for in subsection (8) is not subject to refund**
- 13 **or rebate.**
- 14 **(10) Notwithstanding subsection (9), if a lender retains any part**
- 15 **of a loan origination fee charged on a loan that is paid in full by a**
- 16 **new loan from the same lender within three (3) months after the**
- 17 **date of the prior loan, the lender may not charge a loan origination**
- 18 **fee on the new loan, or, in the case of a revolving loan, on the**
- 19 **increased credit line."**
- 20 Delete pages 4 through 8.
(Reference is to HB 1083 as printed February 8, 2013.)

Representative Burton