
HOUSE BILL No. 1083

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5.

Synopsis: Charges for consumer loans and credit sales. Makes the following changes for purposes of the statutes that prescribe the maximum credit service charge for a consumer credit sale (other than a sale involving a revolving charge account) and the maximum loan finance charge for a supervised loan: (1) Increases the applicable amounts financed that are subject to the graduated service charge or loan finance charge percentages. (2) Increases the service charge or loan finance charge percentage that applies if the graduated percentages do not apply from 21% to 25%. Increases from 21% to 25% the permitted loan finance charge for consumer loans other than supervised loans.

Effective: July 1, 2013.

Burton

January 7, 2013, read first time and referred to Committee on Financial Institutions.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1083



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 24-4.5-2-201, AS AMENDED BY P.L.145-2008,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 201. Credit Service Charge for Consumer Credit
4 Sales other than Revolving Charge Accounts — (1) With respect to a
5 consumer credit sale, other than a sale pursuant to a revolving charge
6 account, a seller may contract for and receive a credit service charge
7 not exceeding that permitted by this 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 five~~
14 **thousand** dollars (~~\$300~~) (**\$5,000**) 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 five thousand~~ dollars (~~\$300~~) (**\$5,000**) but does



- 1 not exceed ~~one seven~~ thousand **five hundred** dollars (~~(\$1,000);~~
 2 **(\$7,500)**; and
 3 (iii) fifteen percent (15%) per year on that part of the unpaid
 4 balances of the amount financed which is more than ~~one seven~~
 5 thousand **five hundred** dollars (~~(\$1,000);~~ **(\$7,500)**; or
 6 (b) ~~twenty-one~~ **twenty-five** percent (~~(21%)~~ **(25%)**) per year on the
 7 unpaid balances of the amount financed.
- 8 (3) This section does not limit or restrict the manner of contracting
 9 for the credit service charge, whether by way of add-on, discount, or
 10 otherwise, so long as the rate of the credit service charge does not
 11 exceed that permitted by this section. If the sale is precomputed:
 12 (a) the credit service charge may be calculated on the assumption
 13 that all scheduled payments will be made when due; and
 14 (b) the effect of prepayment is governed by the provisions on
 15 rebate upon prepayment (IC 24-4.5-2-210).
- 16 (4) For the purposes of this section, the term of a sale agreement
 17 commences with the date the credit is granted or, if goods are delivered
 18 or services performed more than thirty (30) days after that date, with
 19 the date of commencement of delivery or performance except as set
 20 forth below:
 21 (a) Delays attributable to the customer. Where the customer
 22 requests delivery after the thirty (30) day period or where delivery
 23 occurs after the thirty (30) day period for a reason attributable to
 24 the customer (including but not limited to failure to close on a
 25 residence or failure to obtain lease approval), the term of the sale
 26 agreement shall commence with the date credit is granted.
 27 (b) Partial Deliveries. Where any portion of the order has been
 28 delivered within the thirty (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, the seller may make the same credit service
 39 charge on all amounts financed within a specified range. A credit
 40 service charge 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). The minimum credit service charge allowed under this
 8 subsection may be imposed only if:

9 (a) the debtor prepays in full a consumer credit sale, refinancing,
 10 or consolidation, regardless of whether the sale, refinancing, or
 11 consolidation is precomputed;

12 (b) the sale, refinancing, or consolidation prepaid by the debtor is
 13 subject to a credit service charge that:

14 (i) is contracted for by the parties; and

15 (ii) does not exceed the rate prescribed in subsection (2); and

16 (c) the credit service charge earned at the time of prepayment is
 17 less than the minimum credit service charge contracted for under
 18 this subsection.

19 (7) The amounts of ~~three hundred five thousand~~ dollars (~~\$300~~)
 20 (~~\$5,000~~) and ~~one seven thousand five hundred~~ dollars (~~\$1,000~~)
 21 (~~\$7,500~~) in subsection (2) are subject to change pursuant to the
 22 provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

23 (8) The amount of thirty dollars (\$30) in subsection (6) is subject to
 24 change under the provisions on adjustment of dollar amounts
 25 (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
 26 Reference Base Index to be used under this subsection is the Index for
 27 October 1992.

28 SECTION 2. IC 24-4.5-3-201, AS AMENDED BY P.L.145-2008,
 29 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2013]: Sec. 201. Loan Finance Charge for Consumer Loans
 31 other than Supervised Loans—(1) Except as provided in subsections
 32 (6) and (8), with respect to a consumer loan other than a supervised
 33 loan (IC 24-4.5-3-501), a lender may contract for a loan finance charge,
 34 calculated according to the actuarial method, not exceeding ~~twenty-one~~
 35 **twenty-five** percent (~~21%~~) (**25%**) per year on the unpaid balances of
 36 the principal.

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

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

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- 1 (b) the effect of prepayment is governed by the provisions on
 2 rebate upon prepayment (IC 24-4.5-3-210).
- 3 (3) For the purposes of this section, the term of a loan commences
 4 with the date the loan is made. Differences in the lengths of months are
 5 disregarded, and a day may be counted as one-thirtieth (1/30) of a
 6 month. Subject to classifications and differentiations the lender may
 7 reasonably establish, a part of a month in excess of fifteen (15) days
 8 may be treated as a full month if periods of fifteen (15) days or less are
 9 disregarded and if that procedure is not consistently used to obtain a
 10 greater yield than would otherwise be permitted. For purposes of
 11 computing average daily balances, the creditor may elect to treat all
 12 months as consisting of thirty (30) days.
- 13 (4) With respect to a consumer loan made pursuant to a revolving
 14 loan account:
- 15 (a) the loan finance charge shall be deemed not to exceed the
 16 maximum annual percentage rate if the loan finance charge
 17 contracted for and received does not exceed a charge in each
 18 monthly billing cycle which is ~~one two and three-fourths~~
 19 **eighty-three thousandths** percent (~~± 3/4%~~) **(2.083%)** of an
 20 amount no greater than:
- 21 (i) the average daily balance of the debt;
 22 (ii) the unpaid balance of the debt on the same day of the
 23 billing cycle; or
 24 (iii) subject to subsection (5), the median amount within a
 25 specified range within which the average daily balance or the
 26 unpaid balance of the debt, on the same day of the billing
 27 cycle, is included; for the purposes of this subparagraph and
 28 subparagraph (ii), a variation of not more than four (4) days
 29 from month to month is "the same day of the billing cycle";
- 30 (b) if the billing cycle is not monthly, the loan finance charge
 31 shall be deemed not to exceed the maximum annual percentage
 32 rate if the loan finance charge contracted for and received does
 33 not exceed a percentage which bears the same relation to
 34 one-twelfth (1/12) the maximum annual percentage rate as the
 35 number of days in the billing cycle bears to thirty (30); and
- 36 (c) notwithstanding subsection (1), if there is an unpaid balance
 37 on the date as of which the loan finance charge is applied, the
 38 lender may contract for and receive a charge not exceeding fifty
 39 cents (\$0.50) if the billing cycle is monthly or longer, or the pro
 40 rata part of fifty cents (\$0.50) which bears the same relation to
 41 fifty cents (\$0.50) as the number of days in the billing cycle bears
 42 to thirty (30) if the billing cycle is shorter than monthly, but no

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1 charge may be made pursuant to this paragraph if the lender has
 2 made an annual charge for the same period as permitted by the
 3 provisions on additional charges (~~paragraph (c) of subsection (1)~~
 4 ~~of IC 24-4.5-3-202~~). **(IC 24-4.5-3-202(1)(c))**.

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

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

11 (b) when applied to the lowest amount within each range, it does
 12 not produce a rate of loan finance charge exceeding the rate
 13 calculated according to paragraph (a) by more than eight percent
 14 (8%) of the rate calculated according to paragraph (a).

15 (6) With respect to a consumer loan not made pursuant to a
 16 revolving loan account, the lender may contract for and receive a
 17 minimum loan finance charge of not more than thirty dollars (\$30). The
 18 minimum loan finance charge allowed under this subsection may be
 19 imposed only if:

20 (a) the debtor prepays in full a consumer loan, refinancing, or
 21 consolidation, regardless of whether the loan, refinancing, or
 22 consolidation is precomputed;

23 (b) the loan, refinancing, or consolidation prepaid by the debtor
 24 is subject to a loan finance charge that:

25 (i) is contracted for by the parties; and

26 (ii) does not exceed the rate prescribed in subsection (1); and

27 (c) the loan finance charge earned at the time of prepayment is
 28 less than the minimum loan finance charge contracted for under
 29 this subsection.

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

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

37 (a) With respect to a consumer loan that is not made under a
 38 revolving loan account, a loan origination fee of not more than
 39 two percent (2%) of the loan amount.

40 (b) With respect to a consumer loan that is made under a
 41 revolving loan account, a loan origination fee of not more than
 42 two percent (2%) of the line of credit that was contracted for.

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

2 (a) are not subject to refund or rebate;

3 (b) are not permitted if a lender makes a settlement charge under
4 IC 24-4.5-3-202(d)(ii); and

5 (c) are limited to two percent (2%) of the part of the loan that
6 does not exceed two thousand dollars (\$2,000), if the loan is not
7 primarily secured by an interest in land.

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

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

27 (2) The loan finance charge, calculated according to the actuarial
28 method, may not exceed the equivalent of the greater of either of the
29 following:

30 (a) the total of:

31 (i) thirty-six percent (36%) per year on that part of the unpaid
32 balances of the principal which is ~~three hundred five thousand~~
33 ~~dollars (\$300)~~ **(\$5,000)** or less;

34 (ii) twenty-one percent (21%) per year on that part of the
35 unpaid balances of the principal which is more than ~~three~~
36 ~~hundred five thousand~~ **dollars (\$300) (\$5,000)** but does not
37 exceed ~~one seven thousand five hundred~~ **dollars (\$1,000);**
38 **(\$7,500);** and

39 (iii) fifteen percent (15%) per year on that part of the unpaid
40 balances of the principal which is more than ~~one seven~~
41 ~~thousand five hundred~~ **dollars (\$1000); (\$7,500);** or

42 (b) ~~twenty-one~~ **twenty-five** percent (~~21%~~) **(25%)** per year on the

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- 1 unpaid balances of the principal.
- 2 (3) This section does not limit or restrict the manner of contracting
3 for the loan finance charge, whether by way of add-on, discount, or
4 otherwise, so long as the rate of the loan finance charge does not
5 exceed that permitted by this section. If the loan is precomputed:
6 (a) the loan finance charge may be calculated on the assumption
7 that all scheduled payments will be made when due; and
8 (b) the effect of prepayment is governed by the provisions on
9 rebate upon prepayment (IC 24-4.5-3-210).
- 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 five thousand~~ dollars (~~\$300~~)
29 **(\$5,000)** and ~~one seven thousand five hundred~~ dollars (~~\$1,000~~)
30 **(\$7,500)** in subsection (2) and thirty dollars (\$30) in subsection (7) are
31 subject to change pursuant to the provisions on adjustment of dollar
32 amounts (IC 24-4.5-1-106). For the adjustment of the amount of thirty
33 dollars (\$30), the Reference Base Index to be used is the Index for
34 October 1992.
- 35 (7) With respect to a supervised loan not made pursuant to a
36 revolving loan account, the lender may contract for and receive a
37 minimum loan finance charge of not more than thirty dollars (\$30). The
38 minimum loan finance charge allowed under this subsection may be
39 imposed only if:
40 (a) the debtor prepays in full a consumer loan, refinancing, or
41 consolidation, regardless of whether the loan, refinancing, or
42 consolidation is precomputed;

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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.

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