

**IC 24-4.5-3**

Chapter 3. Loans

(Part 1. General Provisions)

**IC 24-4.5-3-101**

**Short title**

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code — Loans.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

**IC 24-4.5-3-102**

**Scope**

Sec. 102. This chapter applies to consumer loans, including regulated and supervised loans. In addition, IC 24-4.5-3-601 through IC 24-4.5-3-605 apply to consumer related loans.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.62.*

**IC 24-4.5-3-103**

**Definitions in chapter**

Sec. 103. Definitions in Chapter — The following definitions apply to this Article:

- "Consumer loan" . . . . . Section 3-104
- "Consumer related loan" . . . . . Section 3-602 (1)
- "Lender" . . . . . Section 3-107 (1)
- "Loan" . . . . . Section 3-106
- "Loan finance charge" . . . . . Section 3-109
- "Loan primarily secured by an interest in land" . . . . . Section 3-105
- "Precomputed" . . . . . Section 3-107 (2)
- "Principal" . . . . . Section 3-107 (3)
- "Revolving loan account" . . . . . Section 3-108
- "Supervised lender" . . . . . Section 3-501 (2)
- "Supervised loan" . . . . . 3-501 (1)

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.1-1994, SEC.118; P.L.122-1994, SEC.16.*

**IC 24-4.5-3-104**

**"Consumer loan"**

Sec. 104. Except with respect to a loan primarily secured by an interest in land (IC 24-4.5-3-105), "consumer loan" is a loan made by a person regularly engaged in the business of making loans in which:

- (a) the debtor is a person other than an organization;
- (b) the debt is primarily for a personal, family, or household purpose;
- (c) either the debt is payable in installments or a loan finance charge is made; and
- (d) either:
  - (i) the principal does not exceed fifty thousand dollars

(\$50,000); or

(ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.14; P.L.122-1994, SEC.17.*

#### **IC 24-4.5-3-105**

##### **"Consumer loan"; mortgage transaction not included**

Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-3-209), and powers and functions of the department (IC 24-4.5-6-104), "consumer loan" does not include a loan primarily secured by an interest in land which is a mortgage transaction, (as defined in IC 24-4.5-1-301(17)).

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1979, P.L.238, SEC.1; Acts 1981, P.L.218, SEC.5; P.L.152-1986, SEC.63; P.L.14-1992, SEC.23; P.L.176-1996, SEC.5; P.L.23-2000, SEC.4; P.L.90-2008, SEC.7.*

#### **IC 24-4.5-3-106**

##### **"Loan"**

Sec. 106. Definition: "Loan" — "Loan" includes

(1) the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;

(2) the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately;

(3) the creation of debt pursuant to a lender credit card or similar arrangement; and

(4) the forbearance of debt arising from a loan.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-107**

##### **Definitions; "lender"; "precomputed"; "principal"**

Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal" — (1) Except as otherwise provided, "lender" means a person regularly engaged in making consumer loans. The term includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;

(b) the amount of any discount excluded from the loan finance charge (subsection (2) of IC 24-4.5-3-109); and

- (c) to the extent that payment is deferred:
  - (i) amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees if not included in (a); and
  - (ii) additional charges permitted by this chapter (IC 24-4.5-3-202).

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.145-2008, SEC.25.*

#### **IC 24-4.5-3-108**

##### **"Revolving loan account"**

Sec. 108. Definition: "Revolving Loan Account" — "Revolving loan account" means an arrangement between a lender and a debtor pursuant to which (1) the lender may permit the debtor to obtain loans from time to time, (2) the unpaid balances of principal and the loan finance and other appropriate charges are debited to an account, (3) a loan finance charge if made is not precomputed but is computed on the outstanding unpaid balances of the debtor's account from time to time, and (4) the debtor has the privilege of paying the balances in instalments.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-109**

##### **"Loan finance charge"**

Sec. 109. (1) "Loan finance charge" means the sum of:

- (a) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting the lender against the debtor's default or other credit loss; and
- (b) charges incurred for investigating the collateral or credit-worthiness of the debtor.

The term does not include charges as a result of default, additional charges (IC 24-4.5-3-202), delinquency charges (IC 24-4.5-3-203.5), or deferral charges (IC 24-4.5-3-204). The term does not include charges paid or payable to a third party that are not required by the lender as a condition or incident to the extension of credit except for borrower paid mortgage broker fees, including fees paid directly to the broker or the lender (for delivery to the broker), whether the fees are paid in cash or financed. However, borrower paid mortgage broker fees do not include fees paid to a mortgage broker by a creditor, including yield spread premiums and service release fees.

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a lender credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.15; P.L.14-1992, SEC.24; P.L.172-1997, SEC.4.*

(Part 2. Maximum Charges)

**IC 24-4.5-3-201**

**Loan finance charge for consumer loans other than supervised loans**

Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans—(1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a supervised loan (IC 24-4.5-3-501), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-one percent (21%) per year on the unpaid balances of the principal.

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

- (a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and
- (b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

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

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

- (a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is one and three-fourths percent (1 3/4%) of an amount no greater than:
  - (i) the average daily balance of the debt;
  - (ii) the unpaid balance of the debt on the same day of the billing cycle; or
  - (iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

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

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

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

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

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

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

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

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

(i) is contracted for by the parties; and

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

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

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

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

(a) With respect to a consumer loan that is not made under a

revolving loan account, a loan origination fee of not more than two percent (2%) of the loan amount.

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

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

(a) are not subject to refund or rebate;

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

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

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

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.3; P.L.14-1992, SEC.25; P.L.122-1994, SEC.18; P.L.45-1995, SEC.8; P.L.163-1999, SEC.1; P.L.10-2006, SEC.5 and P.L.57-2006, SEC.5; P.L.145-2008, SEC.26.*

### **IC 24-4.5-3-202**

#### **Additional charges**

Sec. 202. (1) In addition to the loan finance charge permitted by IC 24-4.5-3-201 through IC 24-4.5-3-210, a lender may contract for and receive the following additional charges in connection with a consumer loan:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Annual participation fees assessed in connection with a revolving loan account. Annual participation fees must:

(i) be reasonable in amount;

(ii) bear a reasonable relationship to the lender's costs to maintain and monitor the loan account; and

(iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(d) With respect to a debt secured by an interest in land, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(i) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

- (ii) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.
  - (iii) Notary and credit report fees.
  - (iv) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the loan finance charge.
  - (v) Appraisal fees.
- (e) Notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure, charges for other benefits, including insurance, conferred on the debtor, if the benefits are of value to the debtor and if the charges are reasonable in relation to the benefits, and are excluded as permissible additional charges from the loan finance charge. With respect to any other additional charge not specifically provided for in this section to be a permitted charge under this subsection, the creditor must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the debtor. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the debtor and is reasonable in relation to the benefits.
- (f) A charge not to exceed twenty-five dollars (\$25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.
- (g) With respect to a revolving loan account, a fee not to exceed twenty-five dollars (\$25) in each billing cycle during which the balance due under the revolving loan account exceeds by more than one hundred dollars (\$100) the maximum credit limit for the account established by the lender.
- (h) With respect to a revolving loan account, a transaction fee that may not exceed the lesser of the following:
- (i) Two percent (2%) of the amount of the transaction.
  - (ii) Ten dollars (\$10).

The additional charges provided for in subdivisions (f), (g), and (h) are not subject to refund or rebate.

(2) An additional charge may be made for insurance in connection with the loan, other than insurance protecting the lender against the debtor's default or other credit loss:

- (a) with respect to insurance against loss of or damage to property or against liability, if the lender furnishes a clear and specific statement in writing to the debtor, setting forth the cost of the insurance if obtained from or through the lender and stating that the debtor may choose the person, subject to the lender's reasonable approval, through whom the insurance is to be obtained; and
- (b) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the lender of the extension of credit and this fact is

clearly disclosed in writing to the debtor, and if, in order to obtain the insurance in connection with the extension of credit, the debtor gives specific affirmative written indication of the desire to do so after written disclosure of the cost of the insurance.

*(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.266, SEC.1.)  
As amended by P.L.247-1983, SEC.16; P.L.139-1990, SEC.1;  
P.L.181-1991, SEC.3; P.L.14-1992, SEC.26; P.L.122-1994, SEC.19;  
P.L.45-1995, SEC.9; P.L.80-1998, SEC.6; P.L.213-2007, SEC.8;  
P.L.217-2007, SEC.7.*

### **IC 24-4.5-3-203**

#### **Repealed**

*(Repealed by P.L.122-1994, SEC.122.)*

### **IC 24-4.5-3-203.5**

#### **Delinquency charges; credit charges not precomputed**

Sec. 203.5. Delinquency Charges — (1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than five dollars (\$5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date.

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. With regard to a delinquency charge on consumer loans made under a revolving loan account, the delinquency charge may be applied each month that the payment is less than the minimum required payment on the account. A delinquency charge may be collected any time after it accrues. A delinquency charge may not be collected if the installment has been deferred and a deferral charge (IC 24-4.5-3-204) has been paid or incurred.

(3) A delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

- (a) an earlier installment; or
- (b) payment due;

may not have been paid in full. For purposes of this subsection, payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed loan are in default for ten (10) days or more, the lender may elect to convert the loan from a precomputed loan to a loan in which the finance charge is based on unpaid balances. A lender that makes this election shall make a rebate under the provisions on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charges for consumer loans (IC 24-4.5-3-201) or supervised loans (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the

amount of any permitted minimum charge (IC 24-4.5-3-210). Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars (\$5) in subsection (1) is subject to change pursuant to the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

*As added by P.L.247-1983, SEC.17. Amended by P.L.181-1991, SEC.4; P.L.115-1992, SEC.2; P.L.14-1992, SEC.27; P.L.122-1994, SEC.20; P.L.45-1995, SEC.10.*

#### **IC 24-4.5-3-204**

##### **Deferral charges**

Sec. 204. Deferral Charges — (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one or more unpaid instalments, and the lender may make and collect a charge not exceeding the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (24-4.5-3-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-205**

##### **Loan finance charge on refinancing**

Sec. 205. Loan Finance Charge on Refinancing — With respect to a consumer loan, refinancing, or consolidation, the lender may by agreement with the debtor refinance the unpaid balance and may contract for and receive a loan finance charge based on the principal resulting from the refinancing at a rate not exceeding that permitted

by the provisions on a loan finance charge for consumer loans (IC 24-4.5-3-201) or the provisions on a loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate. For the purpose of determining the loan finance charge permitted, the principal resulting from the refinancing comprises the following:

(1) if the transaction was not precomputed, the total of the unpaid balance and the accrued charges on the date of the refinancing, or, if the transaction was precomputed, the amount which the debtor would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-3-210) on the date of refinancing; and

(2) appropriate additional charges (IC 24-4.5-3-202), payment of which is deferred.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.28.*

### **IC 24-4.5-3-206**

#### **Loan finance charge on consolidation**

Sec. 206. Loan Finance Charge on Consolidation — (1) If a debtor owes an unpaid balance to a lender with respect to a consumer loan, refinancing, or consolidation, and becomes obligated on another consumer loan, refinancing, or consolidation with the same lender, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer loan, refinancing, or consolidation was not precomputed, the parties may agree to add the unpaid amount of principal and accrued charges on the date of consolidation to the principal with respect to the subsequent loan. If the previous consumer loan, refinancing, or consolidation was precomputed, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing (24-4.5-3-205) and to consolidate the principal resulting from the refinancing by adding it to the principal with respect to the subsequent loan. In either case the lender may contract for and receive a loan finance charge based on the aggregate principal resulting from the consolidation at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or the provisions on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

(2) The parties may agree to consolidate the unpaid balance of a consumer loan with the unpaid balance of a consumer credit sale. The parties may agree to refinance the previous unpaid balance pursuant to the provisions on refinancing sales (24-4.5-2-205) or the provisions on refinancing loans (24-4.5-3-205), whichever is appropriate, and to consolidate the amount financed resulting from the refinancing or the principal resulting from the refinancing by adding it to the amount financed or principal with respect to the subsequent sale or loan. The aggregate amount resulting from the consolidation shall be deemed principal, and the creditor may contract for and receive a loan finance charge based on the principal at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or the provisions

on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-207**

##### **Conversion to revolving loan account**

Sec. 207. Conversion to Revolving Loan Account. — The parties may agree to add to a revolving loan account the unpaid balance of a consumer loan, not made pursuant to a revolving loan account, or a refinancing, or consolidation thereof, or the unpaid balance of a consumer credit sale, refinancing or consolidation, for the purpose of this section.

(1) the unpaid balance of a consumer loan, refinancing, or consolidation is an amount equal to the principal determined according to the provisions on refinancing (24-4.5-3-205); and

(2) the unpaid balance of a consumer credit sale, refinancing, or consolidation is an amount equal to the amount financed determined according to the provisions on refinancing (24-4.5-2-205).

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-208**

##### **Advances to perform covenants of debtor**

Sec. 208. Advances to Perform Covenants of Debtor. — (1) If the agreement with respect to a consumer loan, refinancing, or consolidation contains covenants by the debtor to perform certain duties pertaining to insuring or preserving collateral and if the lender pursuant to the agreement pays for performance of the duties on behalf of the debtor, the lender may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the debtor in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the debtor performed by the lender pertain to insurance, a brief description of the insurance paid for by the lender including the type and amount of coverages. No further information need be given.

(2) A loan finance charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the debtor pursuant to the provisions on disclosure (Part 3) with respect to the loan, refinancing, or consolidation, except that with respect to a revolving loan account the amount of the advance may be added to the unpaid balance of the debt and the lender may make a loan finance charge not exceeding that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or for supervised loans (24-4.5-3-508), whichever is appropriate.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-209**

**Right to prepay; payoff amount; failure to provide; liability; short sale; acknowledgment of offer; acceptance or rejection; failure to respond; liability**

Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

- (a) if the loan is refinanced or consolidated with the same creditor;
- (b) for prepayment by proceeds of any insurance or acceleration after default; or
- (c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (IC 24-4.5-3-210), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

- (a) The loan origination fee allowed under IC 24-4.5-3-201.
- (b) The debtor paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

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

- (a) one hundred dollars (\$100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and
- (b) the greater of:
  - (i) one hundred dollars (\$100); or
  - (ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

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

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

(4) As used in this subsection, "mortgage transaction" means a consumer credit loan in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.29; P.L.122-1994, SEC.21; P.L.23-2000, SEC.6; P.L.159-2001, SEC.1; P.L.145-2008, SEC.27.*

#### **IC 24-4.5-3-210**

##### **Rebate upon prepayment**

Sec. 210. Rebate upon Prepayment. — (1) Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer loan, refinancing, or consolidation, an amount not less than the unearned portion of the loan finance charge calculated according to this section shall be rebated to the debtor. If the rebate otherwise required is less than one dollar (\$1), no rebate need be made.

(2) Upon prepayment in full of a consumer loan, refinancing, or consolidation, other than one (1) under a revolving loan account, if the loan finance charge earned is less than any permitted minimum loan finance charge (IC 24-4.5-3-201(6) or IC 24-4.5-3-508(7)) contracted for, whether or not the consumer loan, refinancing, or consolidation is precomputed, the lender may collect or retain the minimum loan finance charge, as if earned, not exceeding the loan finance charge contracted for.

(3) The unearned portion of the loan finance charge is a fraction of the loan finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in

which prepayment occurs, and the denominator is the sum of all periodic balances under either the loan agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-3-205) or a consolidation (IC 24-4.5-3-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;

(b) "computation period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;

(c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a loan, refinancing, or consolidation, and includes either the first or last day of the interval; and

(d) if the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

(5) This subsection applies only if the schedule of payments is not regular.

(a) If the computational period is one (1) month and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(b) Notwithstanding paragraph (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is

otherwise regular, the lender, at the lender's option, may exclude the extra days and the charge for the extra days in computing the unearned loan finance charge; but if the lender does so and a rebate is required before the due date of the first scheduled installment, the lender shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than five (5) days, or more than nine (9) days, but not more than eleven (11) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment, assuming that period to be one (1) week; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(6) If a deferral (IC 24-4.5-3-204) has been agreed to, the unearned portion of the loan finance charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the loan finance charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the loan finance charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the lender of delinquency charges (IC 24-4.5-3-203, repealed in 1994).

(8) If the maturity is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer loan by the proceeds of consumer credit insurance (IC 24-4.5-4-103), the debtor or the debtor's estate shall pay the same loan finance charge or receive the same rebate as though the debtor had prepaid the agreement on the date the proceeds of the insurance are paid to the lender, but no later than ten (10) business days after satisfactory proof of loss is furnished to the lender. This subsection applies whether or not the loan is precomputed.

(10) Upon prepayment in full of a transaction with a term of more than sixty-one (61) months, the unearned loan finance charge shall be computed by applying the disclosed annual percentage rate that would yield the loan finance charge originally contracted for to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.30; P.L.122-1994, SEC.22; P.L.2-1995, SEC.92; P.L.176-1996, SEC.6.*

(Part 3. Disclosure and Advertising)

#### **IC 24-4.5-3-301**

##### **Applicability; information required**

Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan secured primarily by an interest in land which is a mortgage transaction if the loan is otherwise a consumer loan (IC 24-4.5-3-104).

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act.

*(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.267, SEC.1.) As amended by Acts 1981, P.L.218, SEC.6; Acts 1981, P.L.217, SEC.2; P.L.247-1983, SEC.18; P.L.45-1995, SEC.11.*

#### **IC 24-4.5-3-302**

##### **Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

#### **IC 24-4.5-3-303**

##### **Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

#### **IC 24-4.5-3-304**

##### **Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

#### **IC 24-4.5-3-305**

##### **Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

#### **IC 24-4.5-3-306**

##### **Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

#### **IC 24-4.5-3-307**

**Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

**IC 24-4.5-3-308**

**Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

**IC 24-4.5-3-309**

**Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

**IC 24-4.5-3-310**

**Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

**IC 24-4.5-3-311**

**Repealed**

*(Repealed by P.L.247-1983, SEC.26.)*

(Part 4. Limitations on Agreements and Practices)

**IC 24-4.5-3-401**

**Scope**

Sec. 401. Scope — This Part applies to consumer loans.  
*(Formerly: Acts 1971, P.L.366, SEC.4.)*

**IC 24-4.5-3-402**

**Balloon payments; compliance with Alternative Mortgage Transaction Parity Act**

Sec. 402. (1) This section does not apply to a first lien mortgage transaction.

(2) Except as provided in IC 24-9-4-3 with respect to a high cost home loan (as defined in IC 24-9-2-8), with respect to a consumer loan, other than one pursuant to a revolving loan account or one on which only loan finance charges are payable prior to the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the debtor has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the debtor than the terms of the original loan. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor.

(3) For the purposes of this section, "terms of the refinancing" means:

- (a) in the case of a fixed-rate consumer loan, the individual payment amounts, the charges as a result of default by the debtor, and the rate of the loan finance charge; and
- (b) in the case of a variable rate consumer loan, the method used to determine the individual payment amounts, the charges as a result of default by the debtor, the method used to

determine the rate of the loan finance charge, the circumstances under which the rate of the loan finance charge may increase, and any limitations on the increase in the rate of the loan finance charge.

(4) If a consumer loan is made under the authority of the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note evidencing the mortgage must contain a reference to the applicable federal law.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.19; P.L.213-2007, SEC.9; P.L.217-2007, SEC.8; P.L.90-2008, SEC.8.*

#### **IC 24-4.5-3-403**

##### **No assignment of earnings**

Sec. 403. No Assignment of Earnings — (1) A lender may not take an assignment of earnings of the debtor for payment or as security for payment of a debt arising out of a consumer loan or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the debtor. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted by law.

(2) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to him secured by an assignment of earnings.  
*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-404**

##### **Attorney's fees**

Sec. 404. With respect to a consumer loan the agreement may provide for the payment by the debtor of reasonable attorney's fees after default and referral to an attorney not a salaried employee of the lender. A provision in violation of this section is unenforceable.  
*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.64; P.L.14-1992, SEC.31.*

#### **IC 24-4.5-3-405**

##### **Limitation on default charges**

Sec. 405. Limitation on Default Charges — Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer loan may not provide for charges as a result of default by the debtor other than those authorized by this Article. A provision in violation of this section is unenforceable.  
*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-406**

##### **Notice of assignment**

Sec. 406. Notice of Assignment — The debtor is authorized to pay the original lender until he receives notification of assignment of rights to payment pursuant to a consumer loan and that payment is to

be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the debtor may pay the original lender.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-407**

##### **Authorization to confess judgment prohibited**

Sec. 407. Authorization to Confess Judgment Prohibited — A debtor may not authorize any person to confess judgment on a claim arising out of a consumer loan. An authorization in violation of this section is void.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

#### **IC 24-4.5-3-408**

##### **Time for crediting payments**

Sec. 408. (1) This section also applies to revolving loan accounts.

(2) Except as provided in subsection (3) a creditor shall credit a payment to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge, including a late charge. A delay in posting does not violate this section so long as the payment is credited as of the date of receipt.

(3) If a creditor specifies requirements for the consumer to follow in making payments of the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two (2) days of receipt of the payment.

(4) If a creditor fails to credit a payment as required by this section in time to avoid the imposition of a finance or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

*As added by P.L.163-1999, SEC.2.*

(Part 5. Regulated and Supervised Loans)

#### **IC 24-4.5-3-501**

##### **Definitions; "supervised loan"; "supervised lender"**

Sec. 501. Definitions:

(1) "Supervised loan" means a consumer loan in which the rate of the loan finance charge exceeds twenty-one percent (21%) per year as determined according to the provisions on loan finance charge for consumer loans (IC 24-4.5-3-201).

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

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.4; P.L.122-1994, SEC.23.*

### **IC 24-4.5-3-502**

#### **Authority to make consumer loans**

Sec. 502. Authority to Make Consumer Loans - Unless a person is a supervised financial organization or a collection agency licensed under IC 25-11-1 or has first obtained a license from the department, the person shall not regularly engage in this state in any of the following:

- (1) Making consumer loans.
- (2) Taking assignments of consumer loans.
- (3) Undertaking direct collection of payments from or enforcement of rights against debtors arising from consumer loans. However, a person may collect and enforce for three (3) months without a license if the person promptly applies for a license and the person's application has not been denied.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.32; P.L.122-1994, SEC.24; P.L.176-1996, SEC.7; P.L.23-2000, SEC.7; P.L.10-2006, SEC.6 and P.L.57-2006, SEC.6.*

### **IC 24-4.5-3-503**

#### **License to make consumer loans; evidence of compliance; criminal background checks; fees; automated central licensing system and repository**

Sec. 503. License to Make Consumer Loans—(1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions.

(2) A license shall not be issued unless the department finds that the financial responsibility, character, and fitness of:

- (a) the applicant and any significant affiliate of the applicant;
- (b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and
- (c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

- (a) the time of application;
- (b) the time of renewal of a license; or
- (c) any other time considered necessary by the director.

(4) Evidence of compliance with this section may include:

- (a) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);
- (b) credit histories; and
- (c) other background checks considered necessary by the

director.

If the director requests a national criminal history background check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(5) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(6) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

(7) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An initial investigation fee as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

(8) A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee under subsection (7)(c) is delinquent.

(9) The applicant may deduct the fees required under subsection (7)(a) through (7)(c) from the filing fees paid under IC 24-4.5-6-203.

(10) A loan license issued under this section is not assignable or transferable.

(11) Subject to subsection (12), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under this section; and

(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system.

(12) The director's authority to designate an automated central licensing system and repository under subsection (11) is subject to the following:

(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:

(i) submit information to; or

- (ii) participate in;  
the automated central licensing system and repository.
- (b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:
  - (i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute;
  - (ii) initiate any civil action based on information obtained from the automated central licensing system and repository if the information is not otherwise available to the person under any other state law; or
  - (iii) initiate any civil action based on information obtained from the automated central licensing system and repository if the person could not have initiated the action based on information otherwise available to the person under any other state law.
- (c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are confidential under IC 28-1-2-30 and that are:
  - (i) furnished by the director, the director's designee, or a licensee; or
  - (ii) otherwise obtained by the automated central licensing system and repository;are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.
- (d) Disclosure of documents, materials, and information:
  - (i) to the director or the director's designee; or
  - (ii) by the director or the director's designee;under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.
- (e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.
- (f) This subsection does not limit or impair a person's right to:
  - (i) obtain information;
  - (ii) use information as evidence in a civil action or proceeding; or
  - (iii) use information to initiate a civil action or proceeding;if the information may be obtained from the director or the director's designee under any law.
- (g) The director may require a licensee required to submit information to the automated central licensing system and

repository to pay a processing fee considered reasonable by the director.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.33; P.L.122-1994, SEC.25; P.L.80-1998, SEC.7; P.L.23-2000, SEC.8; P.L.10-2006, SEC.7 and P.L.57-2006, SEC.7; P.L.213-2007, SEC.10; P.L.217-2007, SEC.9; P.L.3-2008, SEC.174; P.L.90-2008, SEC.9.*

#### **IC 24-4.5-3-503.5**

##### **Failure to file renewal form or pay renewal fee**

Sec. 503.5. (a) A license issued by the department authorizing a person to make consumer loans under this article shall be revoked by the department if the person fails to:

- (1) file any renewal form required by the department; or
- (2) pay any license renewal fee described under section 503 of this chapter;

for a period of at least two (2) years.

(b) A person whose license is revoked under this section may:

- (1) pay all delinquent fees and apply for a new license; or
- (2) appeal the revocation to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation, the license remains in force.

*As added by P.L.176-1996, SEC.8.*

#### **IC 24-4.5-3-504**

##### **Suspension or revocation of license; order to show cause; immediate suspension pending investigation; order; relinquishment of license; obligations under existing contracts not affected; reinstatement**

Sec. 504. Revocation or Suspension of License—(1) The department may issue to a person licensed to make consumer loans an order to show cause why the license should not be revoked or suspended for a period determined by the department. The order shall state the place and time for a meeting with the department that is no less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

- (a) the licensee has repeatedly and willfully violated this article or any rule or order lawfully made pursuant to this article;
- (b) the licensee has repeatedly and willfully violated federal consumer credit laws; or
- (c) facts or conditions exist which would clearly have justified the department in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in section 503.5 of this chapter, no revocation or suspension of a license is lawful unless prior to institution of proceedings by the department notice is given to the licensee of the facts or conduct which warrant the intended action,

and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a hearing upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect the person's liability for acts previously committed.

(6) No revocation, suspension, or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

(7) The department may reinstate a license, terminate a suspension, or grant a new license to a person whose license has been revoked or suspended if no fact or condition then exists which clearly would have justified the department in refusing to grant a license.

(8) If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.34; P.L.176-1996, SEC.9; P.L.80-1998, SEC.8; P.L.213-2007, SEC.11; P.L.217-2007, SEC.10; P.L.90-2008, SEC.10.*

#### **IC 24-4.5-3-505**

##### **Record keeping; composite reports; notice to department of certain events or changes**

Sec. 505. Records; Annual Reports—(1) Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the department to determine whether the licensee is complying with the provisions of this article. The record keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever located. The records pertaining to any loan shall be retained for two (2) years after making the final entry

relating to the loan, but in the case of a revolving loan account the two (2) years is measured from the date of each entry. A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

(2) Every licensee shall file with the department a composite report as required by the department, but not more frequently than annually, in the form prescribed by the department relating to all consumer loans made by the licensee. The department shall consult with comparable officials in other states for the purpose of making the kinds of information required in the reports uniform among the states. Information contained in the reports shall be confidential and may be published only in composite form. The department may impose a fee in an amount fixed by the department under IC 28-11-3-5 for each day that a licensee fails to file the report required by this subsection.

(3) Every licensee shall file notification with the department if the licensee:

- (a) has a change in name, address, or principals;
- (b) opens a new branch, closes an existing branch, or relocates an existing branch;
- (c) files for bankruptcy or reorganization; or
- (d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

(4) Every licensee shall file notification with the department if an individual described in section 503(2)(b) or 503(2)(c) of this chapter:

- (a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or
- (b) has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

not later than thirty (30) days after the date of the event described in this subsection.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.35; P.L.122-1994, SEC.26; P.L.45-1995, SEC.12; P.L.172-1997, SEC.5; P.L.63-2001, SEC.3 and P.L.134-2001, SEC.3; P.L.213-2007, SEC.12; P.L.217-2007, SEC.11; P.L.90-2008, SEC.11.*

### **IC 24-4.5-3-505.5**

#### **Automated loan machines**

Sec. 505.5. (a) As used in this section, "automated loan machine" means an unmanned machine that performs routine lending functions.

(b) A licensee may make loans through an automated loan machine at an offsite location if the licensee:

- (1) notifies the department in writing of the existence and

location of the automated loan machine;

(2) maintains at a location licensed or approved by the department the books, accounts, records, and files concerning transactions performed through the automated loan machine; and

(3) posts at the offsite location where the automated loan machine is located the:

(A) address where the books, accounts, records and files are located; and

(B) telephone number at which the licensee may be contacted.

*As added by P.L.172-1997, SEC.6.*

### **IC 24-4.5-3-506**

#### **Examinations and investigations**

Sec. 506. Examinations and Investigations — (1) The department shall examine periodically at such intervals as the department deems appropriate the loans, business, and records of every licensee. For these purposes the department shall have free and reasonable access to the offices, places of business, and records of the lender.

(2) If the lender's records are located outside this state, the lender, at the lender's option shall make them available to the department at a convenient location within this state, or pay the reasonable and necessary expenses for the department or a representative of the department to examine them at the place where they are maintained. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(3) For the purposes of this section, the department may administer oaths or affirmations, and upon the department's own motion or upon request of any party may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(4) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to any civil court for an order compelling compliance.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.36; P.L.45-1995, SEC.13.*

### **IC 24-4.5-3-507**

#### **Administrative orders and procedures**

Sec. 507. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department pursuant to IC 24-4.5-3-501 through IC 24-4.5-3-513.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.65; P.L.7-1987, SEC.106; P.L.14-1992, SEC.37.*

### **IC 24-4.5-3-508**

#### **Loan finance charge for supervised loans**

Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

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

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is three hundred dollars (\$300) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than three hundred dollars (\$300) but does not exceed one thousand dollars (\$1,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than one thousand dollars (\$1000); or

(b) twenty-one percent (21%) per year on the unpaid balances of the principal.

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

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

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment (IC 24-4.5-3-210).

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

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

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

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the

rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) The amounts of three hundred dollars (\$300) and one thousand dollars (\$1,000) in subsection (2) and thirty dollars (\$30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). For the adjustment of the amount of thirty dollars (\$30), the Reference Base Index to be used is the Index for October 1992.

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

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

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

(i) is contracted for by the parties; and

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

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

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.4; Acts 1982, P.L.149, SEC.4; Acts 1982, P.L.150, SEC.5; P.L.14-1992, SEC.38; P.L.122-1994, SEC.27; P.L.10-2006, SEC.8 and P.L.57-2006, SEC.8; P.L.145-2008, SEC.28.*

#### **IC 24-4.5-3-508.5**

##### **Repealed**

*(Repealed by Acts 1982, P.L.150, SEC.8.)*

#### **IC 24-4.5-3-509**

##### **Use of multiple agreements**

Sec. 509. Use of Multiple Agreements. — With respect to a consumer loan, no lender may permit any person, or husband and wife, to become obligated in any way under more than one loan agreement with the lender or with a person related to the lender, with intent to obtain a higher rate of loan finance charge than would otherwise be permitted by the provisions on loan finance charge for supervised loans (IC 24-4.5-3-508) or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure (Part 3). The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for the purposes of the provisions on effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.39.*

### **IC 24-4.5-3-510**

#### **Restrictions on interest in land as security**

Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is one thousand dollars (\$1000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of one thousand dollars (\$1000) in subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (24-4.5-1-106).

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

### **IC 24-4.5-3-511**

#### **Regular schedule of payments; maximum loan term**

Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is one thousand dollars (\$1,000) or less shall be payable in a single instalment or shall be scheduled to be payable in substantially equal instalments which shall be payable at equal periodic intervals except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor and

(a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars (\$300), or

(b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars (\$300) or less.

(2) The amounts of three hundred dollars (\$300) and one thousand dollars (\$1,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.149, SEC.5.*

### **IC 24-4.5-3-512**

#### **Conduct of business other than making loans**

Sec. 512. Conduct of Business Other than Making Loans — A licensee may carry on other business at a location where he makes consumer loans unless he carries on other business for the purpose of evasion or violation of this Article.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

### **IC 24-4.5-3-513**

#### **Application of other provisions**

Sec. 513. Application of Other Provisions — Except as otherwise provided, all provisions of this Article applying to consumer loans apply to supervised loans.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

### **IC 24-4.5-3-514**

#### **Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

(Part 6. Loans Other Than Consumer Loans)

**IC 24-4.5-3-601**

**Loans subject to article by agreement of parties**

Sec. 601. Loans Subject to Article by Agreement of Parties — The parties to a loan other than a consumer loan may agree in writing signed by the parties that the loan is subject to the provisions of this Article applying to consumer loans. If the parties so agree, the loan is a consumer loan for the purposes of this Article.  
*(Formerly: Acts 1971, P.L.366, SEC.4.)*

**IC 24-4.5-3-602**

**"Consumer related loan"; rate of loan finance charge**

Sec. 602. Definition: "Consumer Related Loan"; Rate of Loan Finance Charge — (1) A "consumer related loan" is a loan which is not subject to the provisions of IC 24-4.5 applying to consumer loans and in which the principal does not exceed fifty thousand dollars (\$50,000) if the debtor is a person other than an organization.

(2) With respect to a consumer related loan, including one made pursuant to a revolving loan account, the parties may contract for the payment by the debtor of a loan finance charge not in excess of that permitted by the provisions on loan finance charge for consumer loans other than supervised loans (IC 24-4.5-3-201).

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.6; Acts 1982, P.L.149, SEC.6; Acts 1982, P.L.150, SEC.6; P.L.14-1992, SEC.40; P.L.122-1994, SEC.28.*

**IC 24-4.5-3-603**

**Applicability of other provisions to consumer related loans**

Sec. 603. Applicability of Other Provisions to Consumer Related Loans — Except for the rate of the loan finance charge and the rights to prepay and to rebate upon prepayment, the provisions of Part 2 of this Chapter apply to a consumer related loan.  
*(Formerly: Acts 1971, P.L.366, SEC.4.)*

**IC 24-4.5-3-604**

**Limitation on default charges in consumer related loans**

Sec. 604. Limitation on Default Charges in Consumer Related Loans — (1) The agreement with respect to a consumer related loan may provide for only the following charges as a result of the debtor's default:

- (a) reasonable attorney's fees and reasonable expenses incurred in realizing on a security interest;
- (b) deferral charges not in excess of twenty-one percent (21%) per year of the amount deferred for the period of deferral; and
- (c) other charges that could have been made had the loan been a consumer loan.

(2) A provision in violation of this section is unenforceable.

*(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.7.*

**IC 24-4.5-3-605****Loan finance charge for other loans**

Sec. 605. Loan Finance Charge for Other Loans — With respect to a loan other than a consumer loan or a consumer related loan, the parties may contract for the payment by the debtor of any loan finance charge.

*(Formerly: Acts 1971, P.L.366, SEC.4.)*

**IC 24-4.5-3-606****Required disclosures; liability on fraudulently cashed instruments**

Sec. 606. (1) In addition to any disclosures otherwise provided by law, a lender soliciting loans using a negotiable check, facsimile, or other negotiable instrument that may be used by a consumer to activate a new loan shall disclose the following:

"This is a solicitation for a loan. Read the enclosed disclosures before signing this agreement."

This notice shall be printed in at least ten point type and shall appear conspicuously on the offer.

(2) If a negotiable check, a facsimile, or another instrument is stolen or incorrectly received by someone other than the intended payee and the instrument is fraudulently cashed, the consumer who was the intended payee is not liable for the loan obligation.

*As added by P.L.163-1999, SEC.3.*

**IC 24-4.5-3-701****Requirement to provide property tax information in certain transactions**

Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.

*As added by P.L.64-2004, SEC.15.*