

Indiana Statutes

24-4.5-3-105 Definition; “consumer loan”; first lien mortgage transaction

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:

- (a) disclosure (IC 24-4.5-3-301);
- (b) debtors’ remedies (IC 24-4.5-5-201);
- (c) providing payoff amounts (IC 24-4.5-3-209);
- (d) providing property tax information (IC 24-4.5-3-701);
- (e) powers and functions of the department (IC 24-4.5-6-104);
- (f) the department’s examination and investigatory authority (IC 24-4.5-6-106); and
- (g) the department’s administrative enforcement authority (IC 24-4.5-6-108);

“consumer loan” does not include a first lien mortgage transaction.

Credits

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; P.L.35-2010, SEC.48; P.L.69-2018, SEC.16, eff. July 1, 2018.

24-4.5-3-106 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.

24-4.5-3-107 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).

Credits

Amended by P.L.145-2008, SEC.25, eff. Jan. 1, 2009.

24-4.5-3-108 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 installments.

24-4.5-3-109 Definition; “loan finance charge”

“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.

Credits

Amended by P.L.247-1983, SEC.15; P.L.14-1992, SEC.24; P.L.172-1997, SEC.4.

24-4.5-3-201 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 (as defined in section 501 of this chapter), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-five percent (25%) 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 in section 210 of this chapter.

(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 ($\frac{1}{30}$) 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 two and eighty-three thousandths percent (2.083%) of an amount not 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 ($\frac{1}{12}$) 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 in section 202(1)(c) of this chapter.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may 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 the lender does not assess a nonrefundable prepaid finance charge under subsection (8) and:

(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) Except as provided in subsection (6), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, a lender may contract for and receive a nonrefundable prepaid finance charge of not more than the following:

(a) In the case of a consumer loan that is secured by an interest in land and that:

(i) is not made under a revolving loan account, two percent (2%) of the loan amount; or

(ii) is made under a revolving loan account, two percent (2%) of the line of credit.

(b) In the case of consumer loan that is not secured by an interest in land, fifty dollars (\$50).

(9) The nonrefundable prepaid finance charge provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a consumer loan that is not secured by an interest in land, if a lender retains any part of a nonrefundable prepaid finance charge charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a nonrefundable prepaid finance charge on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) nonrefundable prepaid finance charges in any twelve (12) month period.

(11) In the case of a consumer loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the nonrefundable prepaid finance charge provided for in subsection (8).

Credits

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, eff. Jan. 1, 2009; P.L.91-2013, SEC.2, eff. July 1, 2013; P.L.159-2017, SEC.10, eff. July 1, 2017.

24-4.5-3-202 Additional charges

(1) In addition to the loan finance charge permitted by this chapter, 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 Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) 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 returned payment by a bank or other depository institution of a dishonored check, electronic funds transfer, 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 greater of the following:

(i) Two percent (2%) of the amount of the transaction.

(ii) Ten dollars (\$10).

(i) A charge not to exceed twenty-five dollars (\$25) for a skip-a-payment service, subject to the following:

(i) At the time of use of the service, the consumer must be given written notice of the amount of the charge and must acknowledge the amount in writing, including by electronic signature.

(ii) A charge for a skip-a-payment service may not be assessed with respect to a consumer loan subject to the provisions on rebate upon prepayment that are set forth in section 210 of this chapter.

(iii) A charge for a skip-a-payment service may not be assessed with respect to any payment for which a delinquency charge has been assessed under section 203.5 of this chapter.

(j) A charge not to exceed ten dollars (\$10) for an optional expedited payment service, subject to the following:

(i) The charge may be assessed only upon request by the consumer to use the expedited payment service.

(ii) The amount of the charge must be disclosed to the consumer at the time of the consumer's request to use the expedited payment service.

(iii) The consumer must be informed that the consumer retains the option to make a payment by traditional means.

(iv) The charge may not be established in advance, through any agreement with the consumer, as the expected method of payment.

(v) The charge may not be assessed with respect to any payment for which a delinquency charge has been assessed under section 203.5 of this chapter.

(k) A charge for a GAP agreement, subject to subsection (3).

(l) With respect to consumer loans made by a person exempt from licensing under IC 24-4.5-3-502(1), a charge for a debt cancellation agreement, subject to the following:

(i) A debt cancellation agreement or debt cancellation coverage may not be required by the lender, and that fact must be disclosed in writing to the consumer.

(ii) The charge for the initial term of coverage under the debt cancellation agreement must be disclosed in writing to the consumer. The charge may be disclosed on a unit-cost basis only in the case of revolving loan accounts, closed-end credit transactions if the request for coverage is made by mail or telephone, and closed-end credit transactions if the debt cancellation agreement limits the total amount of indebtedness eligible for coverage.

(iii) If the term of coverage under the debt cancellation agreement is less than the term of the consumer loan, the term of coverage under the debt cancellation agreement must be disclosed in writing to the consumer.

(iv) The consumer must sign or initial an affirmative written request for coverage after receiving all required disclosures.

(v) If debt cancellation coverage for two (2) or more events is provided for in a single charge under a debt cancellation agreement, the entire charge may be excluded from the loan finance charge and imposed as an additional charge under this section if at least one (1) of the events is the loss of life, health, or income.

The additional charges provided for in subdivisions (f) through (j) 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.

(3) An additional charge may be made for a GAP agreement, subject to the following:

(a) A GAP agreement or GAP coverage may not be required by the lender, and that fact must be disclosed in writing to the consumer.

(b) The charge for the initial term of coverage under the GAP agreement must be disclosed in writing to the consumer. The charge may be disclosed on a unit-cost basis only in the case of the following transactions:

(i) Revolving loan accounts.

(ii) Closed-end credit transactions, if the request for coverage is made by mail or telephone.

(iii) Closed-end credit transactions, if the GAP agreement limits the total amount of indebtedness eligible for coverage.

(c) If the term of coverage under the GAP agreement is less than the term of the consumer loan, the term of coverage under the GAP agreement must be disclosed in writing to the consumer.

(d) The consumer must sign or initial an affirmative written request for coverage after receiving all required disclosures.

(e) The GAP agreement must include the following:

(i) In the case of GAP coverage for a new motor vehicle, the manufacturer's suggested retail price (MSRP) for the motor vehicle.

(ii) In the case of GAP coverage for a used motor vehicle, the National Automobile Dealers Association (NADA) average retail value for the motor vehicle.

(iii) The name of the financing entity taking assignment of the agreement, as applicable.

(iv) The name and address of the consumer.

(v) The name of the lender selling the agreement.

(vi) Information advising the consumer that the consumer may be able to obtain similar coverage from the consumer's primary insurance carrier.

(vii) A coverage provision that includes a minimum deductible of five hundred dollars (\$500).

(viii) A provision providing for a minimum thirty (30) day trial period.

(ix) In the case of a consumer loan made with respect to a motor vehicle, a provision excluding the sale of GAP coverage if the amount financed under the consumer loan (not including the cost of the GAP agreement, the cost of any credit insurance, and the cost of any warranties or service agreements) is less than eighty percent (80%) of the manufacturer's suggested retail price (MSRP), in the case of a new motor vehicle, or of the National Automobile Dealers Association (NADA) average retail value, in the case of a used motor vehicle.

(x) In the case of a GAP agreement in which the charge for the agreement exceeds four hundred dollars (\$400), specific instructions that may be used by the consumer to cancel the agreement and obtain a refund of the unearned GAP charge before prepayment in full, in accordance with the procedures, and subject to the conditions, set forth in subdivision (f).

(f) If the charge for the GAP agreement exceeds four hundred dollars (\$400), the consumer is entitled to cancel the agreement and obtain a refund of the unearned GAP charge before prepayment in full. Refunds of unearned GAP charges shall be made subject to the following conditions:

(i) A refund of the charge for a GAP agreement must be calculated using a method that is no less favorable to the consumer than a refund calculated on a pro rata basis.

(ii) The consumer is entitled to a refund of the unearned GAP agreement charge as outlined in the GAP agreement.

(iii) The seller of the GAP agreement, or the seller's assignee, is responsible for making a timely refund to the consumer of unearned GAP agreement charges under the terms and conditions of the GAP agreement.

(g) Upon prepayment in full of the consumer loan:

(i) the GAP coverage is automatically terminated; and

(ii) the seller of the GAP agreement must issue a refund in accordance with subdivision (f).

(h) A lender that sells GAP agreements must:

(i) insure its GAP agreement obligations under a contractual liability insurance policy issued by an insurer authorized to engage in the insurance business in Indiana; and

(ii) retain appropriate records, as required under this article, regarding GAP agreements sold, refunded, and expired.

(4) As used in this section, "debt cancellation agreement" means an agreement that provides coverage for payment or satisfaction of all or part of a debt in the event of the loss of life, health, or income. The term does not include a GAP agreement.

(5) As used in this section, "expedited payment service" means a service offered to a consumer to ensure that a payment made by the consumer with respect to a consumer loan will be reflected as paid and posted on an expedited basis.

(6) As used in this section:

(a) "guaranteed asset protection agreement";

(b) "guaranteed auto protection agreement"; or

(c) "GAP agreement";

means, with respect to consumer loans involving motor vehicles or other titled assets, an agreement in which the lender agrees to cancel or waive all or part of the outstanding debt after all property insurance benefits have been exhausted after the occurrence of a specified event.

(7) As used in this section, "skip-a-payment service" means a service that:

(a) is offered by a lender to a consumer; and

(b) permits the consumer to miss or skip a payment due under a consumer loan without resulting in default.

Credits

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 and P.L.217-2007, SEC.7; P.L.153-2016, SEC.5, eff. July 1, 2016; P.L.159-2017, SEC.11, eff. July 1, 2017; P.L.69-2018, SEC.17, eff. July 1, 2018; P.L.176-2019, SEC.16, eff. July 1, 2019; P.L.211-2019, SEC.32, eff. July 1, 2019; P.L.280-2019, SEC.2, eff. July 1, 2019.

24-4.5-3-203.5 Delinquency charges; credit charges not precomputed

(1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than:

- (a) five dollars (\$5) on any installment or minimum payment due that is not paid in full within ten (10) days after its scheduled due date, if installments under the consumer loan, refinancing, or consolidation are due every fourteen (14) days or less;
- (b) twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full within ten (10) days after its scheduled due date, if installments under the consumer loan, refinancing, or consolidation are due every fifteen (15) days or more; or
- (c) twenty-five dollars (\$25) on any installment or minimum payment due that is not paid in full within ten (10) days after its scheduled due date, in the case of a consumer loan, refinancing, or consolidation that is payable in a single installment that is due at least thirty (30) days after the consumer loan, refinancing, or consolidation is made.

(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 creditor may not, directly or indirectly, charge or collect a delinquency charge on a payment that:

- (a) is paid within ten (10) days after its scheduled due date; and
- (b) is otherwise a full payment of the payment due for the applicable installment period;

if the only delinquency with respect to the consumer loan, refinancing, or consolidation is attributable to a delinquency charge assessed on an earlier installment.

(4) If two (2) or more installments, or parts of two (2) or more 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) 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.

Credits

As added by P.L.247-1983, SEC.17. Amended by P.L.181-1991, SEC.4; P.L.14-1992, SEC.27; P.L.115-1992, SEC.2; P.L.122-1994, SEC.20; P.L.45-1995, SEC.10; P.L.280-2019, SEC.3, eff. July 1, 2019.

24-4.5-3-204 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 (1) or more unpaid instalments, and the lender may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or 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 ($\frac{1}{30}$) 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 (IC 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.

Credits

Amended by P.L.186-2015, SEC.14, eff. July 1, 2015.

24-4.5-3-209 Right to prepay

(1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), 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.

For purposes of this section, the collection of the amount of any conditionally waived closing costs (as allowed under section 202(d) of this chapter) by a creditor, as stipulated in the loan agreement, at the time of prepayment in full does not constitute a prepayment penalty and is not subject to the limitations set forth in this subsection.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total finance charge, including the prepaid finance charge but excluding the nonrefundable prepaid finance charge allowed under this chapter, 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 nonrefundable prepaid finance charge allowed under this chapter.
- (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, in writing, an accurate payoff amount for the consumer loan to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the 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 seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) 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 seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) 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 loan in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land upon which there is constructed or intended to be constructed 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 five (5) business days (excluding legal public holidays, Saturdays, and Sundays) 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 (excluding legal public holidays, Saturdays, and Sundays) 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. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:

(a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a); acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. 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.

(5) This section is not intended to provide the owner of real estate subject to the issuance of process under a judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of the borrower protections from liability that must be disclosed under 12 CFR 1026.38(p)(3) on the form required by 12 CFR 1026.38 (“Closing Disclosures” form under the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)).

Credits

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, eff. Jan. 1, 2009; P.L.35-2010, SEC.49; P.L.89-2011, SEC.16, eff. April 28, 2011; P.L.27-2012, SEC.18; P.L.54-2016, SEC.3, eff. March 21, 2016; P.L.73-2016, SEC.11, eff. March 21, 2016; P.L.159-2017, SEC.12, eff. July 1, 2017.

24-4.5-3-301 Applicability; information required

(1) For the purposes of this section, “consumer loan” includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan (IC 24-4.5-1-301.5(9)).

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.).

Credits

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; P.L.35-2010, SEC.50; P.L.159-2017, SEC.13, eff. July 1, 2017.

24-4.5-3-402 Balloon payments

(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.

Credits

Amended by P.L.247-1983, SEC.19; P.L.213-2007, SEC.9 and P.L.217-2007, SEC.8; P.L.90-2008, SEC.8.

24-4.5-3-403 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.

24-4.5-3-405 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.

24-4.5-3-406 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.

24-4.5-3-501 Definitions; “supervised loan”; “supervised lender”

(1) “Supervised loan” means a consumer loan in which the rate of the loan finance charge exceeds twenty-five percent (25%) per year as determined according to the provisions on loan finance charge for consumer loans in section 201 of this chapter.

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

Credits

Amended by Acts 1982, P.L.150, SEC.4; P.L.122-1994, SEC.23; P.L.91-2013, SEC.3, eff. July 1, 2013.

24-4.5-3-503 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. If, at any time, the information or record contained in:

- (a) an application filed under section 502 of this chapter or section 502.1 of this chapter; or
- (b) a renewal application filed under section 503.6 of this chapter;

is or becomes inaccurate or incomplete in a material respect, the applicant shall promptly file a correcting amendment with the department.

(2) A license shall not be issued unless the department finds that the professional training and experience, 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 concerning a person licensed under section 502 of this chapter may include and for a person licensed under section 502.1 of this chapter must include:

- (a) criminal background checks as described in section 503.1 of this chapter, 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 as described in section 503.2 of this chapter;
- (c) surety bond requirements as described in section 503.3 of this chapter;
- (d) a review of licensure actions in Indiana and other states; and
- (e) other background checks considered necessary by the director.

(5) For purposes of this section and in order to reduce the points of contact that the director may have to maintain under this section, the director may use the NMLSR as a channeling agent for requesting and distributing information to and from any source as directed by the director.

(6) 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.

(7) 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.

(8) 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) Examination fees 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.

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

(10) The licensee may deduct the fees required under subsection (8)(a) and (8)(c) from the filing fees paid under IC 24-4.5-6-203.

(11) Except in a transaction approved under section 515 of this chapter, a license issued under this section is not assignable or transferable.

(12) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

- (a) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
- (b) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

Credits

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, and P.L.217-2007, SEC.9; P.L.3-2008, SEC.174, eff. March 13, 2008; P.L.90-2008, SEC.9; P.L.35-2010, SEC.53; P.L.89-2011, SEC.17; P.L.27-2012, SEC.19; P.L.176-2019, SEC.19, eff. July 1, 2019.

24-4.5-3-503.3 Surety bond

(1) Each:

- (a) creditor licensed by the department to engage in mortgage transactions; and
- (b) person that is exempt (either under this article or under IC 24-4.4-1-202(b)(6)(a)) from licensing and that:
 - (i) employs a licensed mortgage loan originator; or
 - (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

must be covered by a surety bond in accordance with this section.

(2) A surety bond must:

- (a) provide coverage for:
 - (i) a creditor described in subsection (1)(a); and
 - (ii) an exempt person described in subsection (1)(b);

in an amount as prescribed in subsection (4);

(b) be in a form as prescribed by the director;

(c) be in effect:

- (i) during the term of the creditor's license; or
- (ii) at any time during which the person exempt from licensing employs a licensed mortgage loan originator, or sponsors under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent;

as applicable;

(d) remain in effect during the two (2) years after:

(i) the creditor ceases offering financial services to individuals in Indiana; or

(ii) the person exempt from licensing ceases to employ a licensed mortgage loan originator, or ceases to sponsor under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent, or to offer financial services to individuals in Indiana, whichever is later;

as applicable;

(e) be payable to the department for the benefit of:

(i) the state; and

(ii) individuals who reside in Indiana when they agree to receive financial services from the creditor or the person exempt from licensing, as applicable;

(f) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and

(g) have payment conditioned upon:

(i) the creditor's or any of the creditor's licensed mortgage loan originators'; or

(ii) the exempt person's or any of the exempt person's licensed mortgage loan originators';

noncompliance with or violation of this chapter, 750 IAC 9, or other federal or state laws or regulations applicable to mortgage lending.

(3) The director may adopt rules or guidance documents with respect to the requirements for surety bonds as necessary to accomplish the purposes of this article.

(4) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of mortgage transactions originated as determined by the director. If the principal amount of a surety bond required under this section is reduced by payment of a claim or judgment, the creditor or exempt person for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in an amount set by the director. The amount of the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

(5) If for any reason a surety terminates a bond issued under this section, the creditor or the exempt person shall immediately notify the department and file a new surety bond in an amount determined by the director.

(6) Cancellation of a surety bond issued under this section does not affect any liability incurred or accrued during the period when the surety bond was in effect.

(7) The director may obtain satisfaction from a surety bond issued under this section if the director incurs expenses, issues a final order, or recovers a final judgment under this chapter.

(8) Notices required under this section must be made in writing and submitted through the NMLSR or any other electronic registration system that may be approved by the director.

Credits

As added by P.L.35-2010, SEC.56. Amended by P.L.216-2013, SEC.10, eff. July 1, 2014; P.L.103-2014, SEC.6, eff. July 1, 2014; P.L.69-2018, SEC.20, eff. July 1, 2018; P.L.176-2019, SEC.20, eff. July 1, 2019.

24-4.5-3-504 Revocation or suspension of license

(1) The department may issue to a person licensed to:

- (a) make consumer loans; or
- (b) engage in consumer credit sales that are mortgage transactions;

an order to show cause why the license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

- (a) include:
 - (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
 - (ii) a description of the action contemplated by the department; and
 - (iii) a statement of the facts or conduct supporting the issuance of the order; and
- (b) be accompanied by a notice stating that the licensee is entitled to:
 - (i) a reasonable opportunity to be heard; and
 - (ii) show the licensee's compliance with all lawful requirements for retention of the license;

at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

- (a) the licensee has repeatedly and willfully violated:
 - (i) this article or any applicable rule, order, or guidance document adopted or issued by the department; or
 - (ii) any other state or federal laws, rules, or regulations applicable to consumer credit transactions;
- (b) the licensee does not meet the licensing qualifications under section 503 of this chapter;
- (c) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
- (d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or
- (e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of:

- (a) the revocation or suspension;
- (b) if a suspension has been ordered, the duration of the suspension;
- (c) the procedure for appealing the revocation or suspension under IC 4-21.5-3-6; and
- (d) any other terms and conditions that apply to the revocation or suspension.

Not later than 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 does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

Credits

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, eff. May 10, 2007 and P.L.217-2007, SEC.10, eff. May 10, 2007; P.L.90-2008, SEC.10; P.L.35-2010, SEC.59; P.L.27-2012, SEC.22; P.L.186-2015, SEC.18, eff. July 1, 2015.

24-4.5-3-505 Records and reports; unique identifiers; automated examination and regulatory software; filing of notification

(1) Every creditor required to be licensed under this article shall maintain records in conformity with United States generally accepted accounting principles and practices, or in any other form that may be preapproved at the discretion of the director, 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. A person that is exempt (either under this article or under IC 24-4.4-1-202(b)(6)(a)) from licensing and that sponsors one (1) or more licensed mortgage loan originators as independent agents under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), shall:

- (a) cooperate with the department; and
- (b) provide access to records and documents;

as required by the department in carrying out examinations of the activities of the licensed mortgage loan originators sponsored by the federal savings bank.

(2) The unique identifier of any person originating a mortgage transaction must be clearly shown on all mortgage transaction application forms and any other documents as required by the director.

(3) Every licensee that engages in mortgage transactions shall use automated examination and regulatory software designated by the director, including third party software. Use of the software consistent with guidance documents and policies issued by the director is not a violation of IC 28-1-2-30.

(4) Each:

- (a) creditor that is licensed by the department to engage in mortgage transactions; and
- (b) entity that is exempt (either under this article or under IC 24-4.4-1-202(b)(6)(a)) from licensing and that:

- (i) employs one (1) or more licensed mortgage loan originators; or

- (ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), one (1) or more licensed mortgage loan originators as independent agents;

shall submit to the NMLSR a call report, which must be in the form and contain information the NMLSR requires.

(5) Every creditor required to be licensed under this article 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 creditor fails to file the report required by this subsection.

(6) A creditor required to be licensed under this article 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.

(7) Every licensee shall file notification with the department if the licensee or any director, executive officer, or manager of the licensee has been convicted of a felony under the laws of Indiana or any other jurisdiction. The licensee shall file the notification required by this subsection not later than thirty (30) days after the date of the event described in this subsection.

Credits

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 and P.L.217-2007, SEC.11; P.L.90-2008, SEC.11; P.L.35-2010, SEC.60; P.L.27-2012, SEC.23; P.L.103-2014, SEC.7, eff. July 1, 2014; P.L.69-2018, SEC.22, eff. July 1, 2018.

24-4.5-3-505.5 Automated loan machines

(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.

Credits

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

24-4.5-3-508 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:

- (a) the total of:
 - (i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is two thousand dollars (\$2,000) or less;
 - (ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000); and

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

(b) twenty-five percent (25%) 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 in section 210 of this chapter.

(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 ($\frac{1}{30}$) 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, the lender may 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 two thousand dollars (\$2,000) and four thousand dollars (\$4,000) 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). However, notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amount of thirty dollars (\$30), the Reference Base Index to be used is the Index for October 1992. Notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amounts of two thousand dollars (\$2,000) and four thousand dollars (\$4,000), the Reference Base Index to be used is the Index for October 2012.

(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 the lender does not assess a nonrefundable prepaid finance charge under subsection (8) and:

(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.

(8) Except as provided in subsection (7), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, the lender may contract for and receive a nonrefundable prepaid finance charge of not more than fifty dollars (\$50).

(9) The nonrefundable prepaid finance charge provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a supervised loan that is not secured by an interest in land, if a lender retains any part of a nonrefundable prepaid finance charge charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a nonrefundable prepaid finance charge on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) nonrefundable prepaid finance charges in any twelve (12) month period.

(11) In the case of a supervised loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the nonrefundable prepaid finance charge provided for in subsection (8).

Credits

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, eff. Jan. 1, 2009; P.L.91-2013, SEC.4, eff. July 1, 2013; P.L.159-2017, SEC.14, eff. July 1, 2017.

24-4.5-3-601 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.

24-4.5-3-602 Definition; “consumer related loan”; rate of loan finance charge

(1) A “consumer related loan” is a loan in which the following apply:

- (a) The loan is made by a person who is not regularly engaged as a lender in credit transactions of the same kind.
- (b) The debtor is a person other than an organization.
- (c) The debt is primarily for a personal, family, or household purpose.
- (d) Either the debt is payable in installments or a loan finance charge is made.
- (e) Either:
 - (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); 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.

(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, calculated according to the actuarial method, not to exceed twenty-five percent (25%) per year on the unpaid principal balance.

(3) A person engaged in consumer related loans is not required to comply with:

- (a) the licensing requirements set forth in section 503 of this chapter; or
- (b) IC 24-4.5-6-201 through IC 24-4.5-6-203.

Credits

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; P.L.27-2012, SEC.24; P.L.216-2013, SEC.11, eff. Jan. 1, 2013; P.L.137-2014, SEC.13, eff. March 25, 2014; P.L.73-2016, SEC.12, eff. July 1, 2016; P.L.69-2018, SEC.23, eff. July 1, 2018.

24-4.5-3-603 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 Chapter¹ apply to a consumer related loan.

24-4.5-3-604 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-five percent (25%) 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.

Credits

Amended by Acts 1982, P.L.150, SEC.7; P.L.73-2016, SEC.13, eff. March 21, 2016.

24-4.5-3-605 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.

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

(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.

Credits

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