



January 26, 2018

HOUSE BILL No. 1319

DIGEST OF HB 1319 (Updated January 25, 2018 10:50 am - DI 101)

Citations Affected: IC 24-4.5.

Synopsis: Small loans and unsecured consumer installment loans. Authorizes a lender that is licensed by the department of financial institutions (department) to make small loans under the Uniform Consumer Credit Code (UCCC) to make unsecured consumer installment loans under the same license. Defines an "unsecured consumer installment loan" as a loan: (1) with a principal amount that is: (A) more than \$605 and not more than \$1,500; and (B) payable in three or more substantially equal periodic payments; and (2) in which the lender holds one or more checks of the borrower for a specific period, or receives the borrower's authorization to debit the borrower's account on one or more occasions for a specific period, before the lender deposits the check or debits the account. Amends the UCCC chapter governing small loans to establish the following with respect to unsecured consumer installment loans: (1) An authorized finance charge and monthly maintenance fee. (2) A \$25 returned check fee. (3) Mandatory consumer disclosures, including the inclusion in the mandatory consumer pamphlet of information about the 211 telephone dialing code. (4) An annual fee assessed on lenders of \$1,000 per license and \$1,000 per Indiana branch location, for the department's use in supporting financial education programs. (5) A requirement that the loan term be at least three months but not more than 12 months. (6) Restrictions with respect to consecutive unsecured consumer installment loans. (7) Lending prohibitions based on a borrower's monthly gross income. (8) Provisions concerning a lender's duties upon
(Continued next page)

Effective: July 1, 2018.

Carbaugh, Morris, Burton

January 11, 2018, read first time and referred to Committee on Financial Institutions.
January 25, 2018, amended, reported — Do Pass.

HB 1319—LS 7138/DI 101



Digest Continued

payments made by a borrower. (9) Prohibitions against prepayment penalties and loan renewals. (10) Prohibitions against a borrower having: (A) a small loan and an unsecured consumer installment loan; or (B) more than one unsecured consumer installment; outstanding at the same time. (11) Permissible and prohibited remedies upon a borrower's default. (12) Remedies and damages for violations by licensees and unlicensed persons. (13) Prohibited acts by a lender. Removes from the chapter governing small loans and unsecured consumer installment loans provisions specifying a reference base index for use by the department in adjusting specified dollar amounts designated as subject to change. Makes conforming adjustments to specified dollar amounts in provisions concerning small loans.



January 26, 2018

Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in *this style type*, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1319

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

1 SECTION 1. IC 24-4.5-3-502, AS AMENDED BY P.L.153-2016,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 502. (1) A person that is a:
4 (a) depository institution;
5 (b) subsidiary that is owned and controlled by a depository
6 institution and regulated by a federal banking agency; or
7 (c) credit union service organization;
8 may engage in Indiana in the making of consumer loans (including
9 small loans **and unsecured consumer installment loans** that are
10 subject to IC 24-4.5-7) that are not mortgage transactions without
11 obtaining a license under this article.
12 (2) A collection agency licensed under IC 25-11-1 may engage in:
13 (a) taking assignments of consumer loans (including small loans
14 **and unsecured consumer installment loans** that are subject to
15 IC 24-4.5-7) that are not mortgage transactions; and

HB 1319—LS 7138/DI 101



1 (b) undertaking the direct collection of payments from or the
 2 enforcement of rights against debtors arising from consumer loans
 3 (including small loans **and unsecured consumer installment**
 4 **loans** that are subject to IC 24-4.5-7) that are not mortgage
 5 transactions;

6 in Indiana without obtaining a license under this article.

7 (3) A person that does not qualify under subsection (1) or (2) shall
 8 acquire and retain a license under this chapter in order to regularly
 9 engage in Indiana in the following actions with respect to consumer
 10 loans that are not small loans (as defined in IC 24-4.5-7-104),
 11 **unsecured consumer installment loans (as defined in**
 12 **IC 24-4.5-7-104.5)**, or mortgage transactions:

13 (a) The making of consumer loans.

14 (b) Taking assignments of consumer loans.

15 (c) Undertaking the direct collection of payments from or the
 16 enforcement of rights against debtors arising from consumer
 17 loans.

18 (4) A separate license under this chapter is required for each legal
 19 entity that engages in Indiana in any activity described in subsection
 20 (3). However, a separate license under this chapter is not required for
 21 each branch of a legal entity licensed under this chapter to perform an
 22 activity described in subsection (3).

23 (5) Except as otherwise provided in subsections (1) and (2), a
 24 separate license under IC 24-4.5-7 is required in order to regularly
 25 engage in Indiana in the following actions with respect to small loans
 26 (as defined in IC 24-4.5-7-104) **or unsecured consumer installment**
 27 **loans (as defined in IC 24-4.5-7-104.5):**

28 (a) The making of small loans (as defined in IC 24-4.5-7-104) **or**
 29 **unsecured consumer installment loans (as defined in**
 30 **IC 24-4.5-7-104.5).**

31 (b) Taking assignments of small loans (as defined in
 32 IC 24-4.5-7-104) **or unsecured consumer installment loans (as**
 33 **defined in IC 24-4.5-7-104.5).**

34 (c) Undertaking the direct collection of payments from or the
 35 enforcement of rights against debtors arising from small loans (as
 36 defined in IC 24-4.5-7-104) **or unsecured consumer installment**
 37 **loans (as defined in IC 24-4.5-7-104.5).**

38 A person that seeks licensure under IC 24-4.5-7 in order to regularly
 39 engage in Indiana in the actions set forth in this subsection shall apply
 40 to the department for that license in the form and manner prescribed by
 41 the department, and is subject to the same licensure requirements and
 42 procedures as an applicant for a license to make consumer loans (other



1 than small loans, **unsecured consumer installment loans**, or mortgage
2 transactions) under this section.

3 (6) A CPAP contract must comply with IC 24-12-2.

4 SECTION 2. IC 24-4.5-3-502.2, AS ADDED BY P.L.137-2014,
5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2018]: Sec. 502.2. (1) Subject to subsection (6), the director
7 may designate the NMLSR to serve as the sole entity responsible for:

8 (a) processing applications and renewals for licenses required
9 under section 502 of this chapter;

10 (b) issuing unique identifiers for licensees and entities exempt
11 from licensing under section 502 of this chapter; and

12 (c) performing other services that the director determines are
13 necessary for the orderly administration of the department's
14 licensing system under section 502 of this chapter.

15 (2) Subject to the confidentiality provisions contained in IC 5-14-3,
16 this section, and IC 28-1-2-30, the director shall regularly report to the
17 NMLSR significant or recurring violations of this article related to
18 consumer loans that are not mortgage transactions, including small
19 loans **and unsecured consumer installment loans** under IC 24-4.5-7.

20 (3) Subject to the confidentiality provisions contained in IC 5-14-3,
21 this section, and IC 28-1-2-30, the director may report to the NMLSR
22 complaints received regarding licensees under section 502 of this
23 chapter in connection with consumer loans that are not mortgage
24 transactions, including small loans **and unsecured consumer**
25 **installment loans** under IC 24-4.5-7.

26 (4) The director may report to the NMLSR publicly adjudicated
27 licensure actions against licensees under section 502 of this chapter.

28 (5) The director shall establish a process in which persons licensed
29 in accordance with section 502 of this chapter may challenge
30 information reported to the NMLSR by the department.

31 (6) The director's authority to designate the NMLSR under
32 subsection (1) is subject to the following:

33 (a) Information stored in the NMLSR is subject to the
34 confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A
35 person may not:

36 (i) obtain information from the NMLSR unless the person is
37 authorized to do so by statute;

38 (ii) initiate any civil action based on information obtained
39 from the NMLSR if the information is not otherwise available
40 to the person under any other state law; or

41 (iii) initiate any civil action based on information obtained
42 from the NMLSR if the person could not have initiated the



- 1 action based on information otherwise available to the person
 2 under any other state law.
- 3 (b) Documents, materials, and other forms of information in the
 4 control or possession of the NMLSR that are confidential under
 5 IC 28-1-2-30 and that are:
- 6 (i) furnished by the director, the director's designee, or a
 7 licensee; or
 8 (ii) otherwise obtained by the NMLSR;
- 9 are confidential and privileged by law and are not subject to
 10 inspection under IC 5-14-3, subject to subpoena, subject to
 11 discovery, or admissible in evidence in any civil action. However,
 12 the director may use the documents, materials, or other
 13 information available to the director in furtherance of any action
 14 brought in connection with the director's duties under this article.
- 15 (c) Disclosure of documents, materials, and information:
- 16 (i) to the director; or
 17 (ii) by the director;
- 18 under this subsection does not result in a waiver of any applicable
 19 privilege or claim of confidentiality with respect to the
 20 documents, materials, or information.
- 21 (d) Information provided to the NMLSR is subject to IC 4-1-11.
- 22 (e) This subsection does not limit or impair a person's right to:
- 23 (i) obtain information;
 24 (ii) use information as evidence in a civil action or proceeding;
 25 or
 26 (iii) use information to initiate a civil action or proceeding;
 27 if the information may be obtained from the director or the
 28 director's designee under any law.
- 29 (f) The requirements under any federal law or IC 5-14-3 regarding
 30 the privacy or confidentiality of any information or material
 31 provided to the NMLSR, and any privilege arising under federal
 32 or state law, including the rules of any federal or state court, with
 33 respect to the information or material, continue to apply to the
 34 information or material after the information or material has been
 35 disclosed to the NMLSR. The information and material may be
 36 shared with all state and federal regulatory officials with financial
 37 services industry oversight authority without the loss of privilege
 38 or the loss of confidentiality protections provided by federal law
 39 or IC 5-14-3.
- 40 (g) For purposes of this section, the director may enter agreements
 41 or sharing arrangements with other governmental agencies, the
 42 Conference of State Bank Supervisors, or other associations



1 representing governmental agencies as established by rule or
2 order of the director.

3 (h) Information or material that is subject to a privilege or
4 confidentiality under subdivision (f) is not subject to:

5 (i) disclosure under any federal or state law governing the
6 disclosure to the public of information held by an officer or an
7 agency of the federal government or the respective state; or

8 (ii) subpoena, discovery, or admission into evidence, in any
9 private civil action or administrative process, unless with
10 respect to any privileged information or material held by the
11 NMLSR, the person to whom the information or material
12 pertains waives, in whole or in part, in the discretion of the
13 person, that privilege.

14 (i) Any provision of IC 5-14-3 that concerns the disclosure of:

15 (i) confidential supervisory information; or

16 (ii) any information or material described in subdivision (f);
17 and that is inconsistent with subdivision (f) is superseded by this
18 section.

19 (j) This section does not apply with respect to information or
20 material that concerns the employment history of, and publicly
21 adjudicated disciplinary and enforcement actions against, a
22 person licensed in accordance with section 502 of this chapter and
23 described in section 503(2) of this chapter and that is included in
24 the NMLSR for access by the public.

25 (k) The director may require a licensee required to submit
26 information to the NMLSR to pay a processing fee considered
27 reasonable by the director. In determining whether an NMLSR
28 processing fee is reasonable, the director shall:

29 (i) require review of; and

30 (ii) make available;

31 the audited financial statements of the NMLSR.

32 (7) Notwithstanding any other provision of law, any:

33 (a) application, renewal, or other form or document that:

34 (i) relates to licenses issued under section 502 of this chapter;
35 and

36 (ii) is made or produced in an electronic format;

37 (b) document filed as an electronic record in a multistate
38 automated repository established and operated for the licensing or
39 registration of financial services entities and their employees; or

40 (c) electronic record filed through the NMLSR;

41 is considered a valid original document when reproduced in paper form
42 by the department.



1 SECTION 3. IC 24-4.5-7-101 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 101. This chapter shall
 3 be known and may be cited as Uniform Consumer Credit Code —
 4 Small Loans **and Unsecured Consumer Installment Loans.**

5 SECTION 4. IC 24-4.5-7-102, AS AMENDED BY P.L.186-2015,
 6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2018]: Sec. 102. (1) Except as otherwise provided, all
 8 provisions of this article applying to consumer loans, including
 9 IC 24-4.5-3-502.2, apply to:

- 10 (a) small loans (as defined in **section 104** of this chapter); **and**
 11 (b) **unsecured consumer installment loans (as defined in**
 12 **section 104.5 of this chapter).**

13 (2) Subject to subsection (7), a person may not regularly engage in
 14 Indiana in any of the following actions unless the department first
 15 issues to the person a license under this chapter:

- 16 (a) The making of:
 17 (i) small loans; **or**
 18 (ii) **unsecured consumer installment loans;**
 19 **under this chapter.**

- 20 (b) Taking assignments of:
 21 (i) small loans; **or**
 22 (ii) **unsecured consumer installment loans;**
 23 **under this chapter.**

- 24 (c) Undertaking the direct collection of payments from or the
 25 enforcement of rights against debtors arising from:
 26 (i) small loans; **or**
 27 (ii) **unsecured consumer installment loans;**
 28 **under this chapter.**

29 (3) Subject to subsection (4), a person that seeks licensure under
 30 this chapter:

- 31 (a) shall apply to the department for a license in the form and
 32 manner prescribed by the department; and
 33 (b) is subject to the same licensure requirements and procedures
 34 as an applicant for a license to make consumer loans (other than
 35 mortgage transactions) under IC 24-4.5-3-502.

36 (4) A person that seeks to make, take assignments of, or undertake
 37 the direct collection of payments from or the enforcement of rights
 38 against debtors arising from both:

- 39 (a) small loans **or unsecured consumer installment loans** under
 40 this chapter; and
 41 (b) consumer loans (other than mortgage transactions) that are not
 42 small loans **or unsecured consumer installment loans;**



1 must obtain a separate license from the department for ~~each type of~~
 2 ~~loan~~, **loans described in subdivision (a) and for loans described in**
 3 **subdivision (b)** as described in IC 24-4.5-3-502(5).

4 (5) This chapter applies to:

5 (a) a lender or to any person who facilitates, enables, or acts as a
 6 conduit for any person who is or may be exempt from licensing
 7 under IC 24-4.5-3-502;

8 (b) a bank, savings association, credit union, or other state or
 9 federally regulated financial institution except those that are
 10 specifically exempt regarding limitations on interest rates and
 11 fees; or

12 (c) a person, if the department determines that a transaction is:

13 (i) in substance a disguised loan; or

14 (ii) the application of subterfuge for the purpose of avoiding
 15 this chapter.

16 (6) A loan that:

17 (a) does not qualify as a small loan under section 104 of this
 18 chapter;

19 (b) is for a term shorter than that specified in section 401(1) of
 20 this chapter; or

21 (c) is made in violation of section 201, 401, 402, 404, or 410 of
 22 this chapter;

23 is subject to this article. The department may conform the finance
 24 charge for a loan described in this subsection to the limitations set forth
 25 in IC 24-4.5-3-508.

26 (7) A loan that:

27 (a) **does not qualify as an unsecured consumer installment**
 28 **loan under section 104.5 of this chapter;**

29 (b) **is for a term shorter than that specified in section**
 30 **401.5(1)(a) of this chapter; or**

31 (c) **is made in violation of section 201.5, 401.5, 402.5, 404, or**
 32 **410 of this chapter;**

33 **is subject to this article. The department may conform the finance**
 34 **charge for a loan described in this subsection to the limitations set**
 35 **forth in IC 24-4.5-3-508.**

36 (7) (8) Notwithstanding IC 24-4.5-1-301.5, for purposes of
 37 subsection (2), a person "regularly engages" in any of the activities
 38 described in subsection (2) with respect to a small loan **or an**
 39 **unsecured consumer installment loan** if the person:

40 (a) performed any of the activities described in subsection (2)
 41 with respect to a small loan **or an unsecured consumer**
 42 **installment loan** at least one (1) time in the preceding calendar



1 year; or

2 (b) performs or will perform any of the activities described in
 3 subsection (2) with respect to a small loan **or an unsecured**
 4 **consumer installment loan** at least one (1) time in the current
 5 calendar year if the person did not perform any of the activities
 6 described in subsection (2) with respect to a small loan **or an**
 7 **unsecured consumer installment loan** at least one (1) time in
 8 the preceding calendar year.

9 SECTION 5. IC 24-4.5-7-103, AS AMENDED BY P.L.57-2006,
 10 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 103. The following definitions apply to this
 12 chapter:

13 "Small loan"	Section 7-104
14 "Unsecured consumer	
15 installment loan"	Section 7-104.5
16 "Principal"	Section 7-105
17 "Check"	Section 7-106
18 "Renewal"	Section 7-107
19 "Consecutive small loan"	Section 7-108
20 "Consecutive unsecured	
21 consumer installment loan"	Section 7-108.5
22 "Paid in full"	Section 7-109
23 "Monthly gross income"	Section 7-110
24 "Lender"	Section 7-111

25 SECTION 6. IC 24-4.5-7-104, AS AMENDED BY P.L.216-2013,
 26 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2018]: Sec. 104. (†) "Small loan" means a loan:

28 (a) with a principal loan amount that is at least fifty dollars (\$50)
 29 and not more than ~~five six hundred fifty five~~ **fifty five** dollars (~~\$550~~);
 30 **(\$605)**; and

31 (b) in which the lender holds the borrower's check for a specific
 32 period, or receives the borrower's written authorization to debit
 33 the borrower's account (other than as a result of default) under an
 34 agreement, either express or implied, for a specific period, before
 35 the lender:

36 (i) offers the check for deposit or presentment; or

37 (ii) exercises the authorization to debit the borrower's account.

38 (2) ~~The amount of five hundred fifty dollars (\$550) in subsection~~
 39 ~~(1)(a) is subject to change under the provisions on adjustment of dollar~~
 40 ~~amounts (IC 24-4.5-1-106). However, notwithstanding~~
 41 ~~IC 24-4.5-1-106(1), the Reference Base Index to be used under this~~
 42 ~~subsection is the Index for October 2006.~~



1 SECTION 7. IC 24-4.5-7-104.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2018]: **Sec. 104.5. (1) "Unsecured consumer
 4 installment loan" means a loan:**

5 (a) with a principal loan amount that is:

6 (i) more than six hundred five dollars (\$605) and not more
 7 than one thousand five hundred dollars (\$1,500); and

8 (ii) payable in three (3) or more substantially equal
 9 periodic payments;

10 (b) in which the lender holds one (1) or more checks of the
 11 borrower for a specific period, or receives the borrower's
 12 written authorization to debit the borrower's account (other
 13 than as a result of default) on one (1) or more occasions under
 14 an agreement, either express or implied, for a specific period,
 15 before the lender:

16 (i) offers one (1) or more checks of the borrower for
 17 deposit or presentment; or

18 (ii) exercises an authorization to debit the borrower's
 19 account; and

20 (c) in which:

21 (i) a check of the borrower; or

22 (ii) an authorization to debit the borrower's account;

23 described in subdivision (b) does not constitute security for
 24 the loan.

25 (2) The term does not include a consumer loan made under
 26 IC 24-4.5-3.

27 SECTION 8. IC 24-4.5-7-105 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 105. "Principal", **when
 29 used in connection with a small loan or an unsecured consumer
 30 installment loan**, means the total of

31 (a) the net amount paid to, receivable by, or paid or payable from
 32 the account of the borrower. **and**

33 (b) to the extent that the payment is deferred; the additional
 34 charges permitted by this chapter that are not included in
 35 subdivision (a);

36 SECTION 9. IC 24-4.5-7-107 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 107. (1) "Renewal",
 38 **when used in connection with a small loan**, refers to a small loan that
 39 takes the place of an existing small loan by:

40 (a) renewing;

41 (b) repaying;

42 (c) refinancing; or



1 (d) consolidating;
 2 a small loan with the proceeds of another small loan made to the same
 3 borrower by a lender.
 4 **(2) "Renewal", when used in connection with an unsecured**
 5 **consumer installment loan, refers to an unsecured consumer**
 6 **installment loan that takes the place of an existing unsecured**
 7 **consumer installment loan by:**
 8 **(a) renewing;**
 9 **(b) repaying;**
 10 **(c) refinancing; or**
 11 **(d) consolidating;**
 12 **an unsecured consumer installment loan with the proceeds of**
 13 **another unsecured consumer installment loan made to the same**
 14 **borrower by a lender.**
 15 SECTION 10. IC 24-4.5-7-108.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2018]: **Sec. 108.5. "Consecutive unsecured**
 18 **consumer installment loan" means a new unsecured consumer**
 19 **installment loan agreement that a lender enters with the same**
 20 **borrower not later than seven (7) calendar days after a previous**
 21 **unsecured consumer installment loan made to that borrower is**
 22 **paid in full.**
 23 SECTION 11. IC 24-4.5-7-109, AS AMENDED BY P.L.57-2006,
 24 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2018]: **Sec. 109. (1) "Paid in full", with respect to a small**
 26 **loan, means the termination of a the small loan through:**
 27 **(1) the presentment of the borrower's check for payment by the**
 28 **drawee bank, or the exercise by the lender of an authorization to**
 29 **debit an account of the borrower; or**
 30 **(2) the return of a check to a borrower who redeems it for**
 31 **consideration.**
 32 **(2) "Paid in full", with respect to an unsecured consumer**
 33 **installment loan, means the termination of the unsecured consumer**
 34 **installment loan through:**
 35 **(1) the presentment of one (1) or more of the borrower's**
 36 **checks for payment by the drawee bank, or the exercise by the**
 37 **lender of one (1) or more authorizations to debit an account**
 38 **of the borrower; or**
 39 **(2) the return of one (1) or more checks to a borrower who**
 40 **redeems them for consideration.**
 41 SECTION 12. IC 24-4.5-7-110 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 110. "Monthly gross**



1 income" means the income received by the borrower in the thirty (30)
2 day period preceding the borrower's application for:

3 (a) a small loan; or

4 (b) **an unsecured consumer installment loan;**

5 under this chapter and exclusive of any income other than regular gross
6 pay received, or as otherwise determined by the department.

7 SECTION 13. IC 24-4.5-7-111, AS AMENDED BY P.L.186-2015,
8 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2018]: Sec. 111. "Lender" means a person that acquires and
10 retains a license issued by the department of financial institutions under
11 this chapter to engage in small loans **or unsecured consumer**
12 **installment loans.**

13 SECTION 14. IC 24-4.5-7-201, AS AMENDED BY P.L.217-2007,
14 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2018]: Sec. 201. (1) Finance charges on the first two hundred
16 fifty dollars (\$250) of a small loan are limited to fifteen percent (15%)
17 of the principal.

18 (2) Finance charges on the amount of a small loan greater than two
19 hundred fifty dollars (\$250) and less than or equal to four hundred
20 dollars (\$400) are limited to thirteen percent (13%) of the amount over
21 two hundred fifty dollars (\$250) and less than or equal to four hundred
22 dollars (\$400).

23 (3) Finance charges on the amount of the small loan greater than
24 four hundred dollars (\$400) and less than or equal to ~~five~~ **six** hundred
25 ~~fifty five~~ **five** dollars (~~\$550~~) (**\$605**) are limited to ten percent (10%) of the
26 amount over four hundred dollars (\$400) and less than or equal to ~~five~~
27 **six hundred fifty five** dollars (~~\$550~~): (**\$605**).

28 (4) ~~The amount of five hundred fifty dollars (\$550) in subsection (3)~~
29 ~~is subject to change under the provisions on adjustment of dollar~~
30 ~~amounts (IC 24-4.5-1-106). However, notwithstanding~~
31 ~~IC 24-4.5-1-106(1), the Reference Base Index to be used under this~~
32 ~~subsection is the Index for October 2006.~~

33 SECTION 15. IC 24-4.5-7-201.5 IS ADDED TO THE INDIANA
34 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2018]: **Sec. 201.5. (1) Finance charges on an**
36 **unsecured consumer installment loan are limited to:**

37 (a) **fifteen percent (15%) of the original principal on the first**
38 **six hundred five dollars (\$605) of an unsecured consumer**
39 **loan; plus**

40 (b) **seven and one-half percent (7 1/2%) of any amount of the**
41 **original principal over six hundred five dollars (\$605).**

42 **The finance charge under this subsection is considered fully earned**



1 as of the date of the transaction and is not refundable or subject to
 2 proration in the event of prepayment of the unsecured consumer
 3 installment loan.

4 (2) In addition to a finance charge under subsection (1), for each
 5 unsecured consumer installment loan made under this chapter, a
 6 lender may also charge a monthly maintenance fee computed in
 7 advance, for each full month in the loan term, not to exceed eight
 8 dollars (\$8) per one hundred dollars (\$100) of original principal. If
 9 an unsecured consumer installment loan is prepaid before the
 10 maturity of the loan term, the lender shall refund to the borrower
 11 a prorated portion of the monthly maintenance fee based upon the
 12 ratio that the days left in the loan term before maturity bears to
 13 the total number of days in the loan term.

14 (3) A lender may charge only those charges authorized in this
 15 chapter in connection with an unsecured consumer installment
 16 loan.

17 SECTION 16. IC 24-4.5-7-202, AS AMENDED BY P.L.60-2016,
 18 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2018]: Sec. 202. (1) Notwithstanding any other law, the only
 20 fee that may be contracted for and received by the lender or an assignee
 21 on a small loan **or an unsecured consumer installment loan** is a
 22 charge, not to exceed twenty-five dollars (\$25), for each:

23 (a) return by a bank or other depository institution of a
 24 dishonored:

25 (i) check;

26 (ii) negotiable order of withdrawal; or

27 (iii) share draft;

28 issued by the borrower; or

29 (b) time an authorization to debit the borrower's account is
 30 dishonored.

31 This additional charge may be assessed one (1) time regardless of how
 32 many times a check or an authorization to debit the borrower's account
 33 may be submitted by the lender and dishonored.

34 (2) A lender may:

35 (a) present a borrower's check for payment; or

36 (b) exercise a borrower's authorization to debit the borrower's
 37 account;

38 not more than three (3) times.

39 SECTION 17. IC 24-4.5-7-301, AS AMENDED BY P.L.159-2017,
 40 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2018]: Sec. 301. (1) For purposes of this section, the lender
 42 shall disclose to the borrower to whom credit is extended with respect



1 to a small loan **or an unsecured consumer installment loan** the
 2 information required by the Consumer Credit Protection Act (15 U.S.C.
 3 1601 et seq.).

4 (2) In addition to the requirements of subsection (1), the lender must
 5 conspicuously display in bold type a notice to the public both in the
 6 lending area of each business location and in the loan documents the
 7 following statement:

8 "WARNING: A small loan **or an unsecured consumer**
 9 **installment loan** is not intended to meet long term financial
 10 needs. A small loan **or an unsecured consumer installment loan**
 11 should be used only to meet short term cash needs. The cost of
 12 your small loan **or unsecured consumer installment loan** may
 13 be higher than loans offered by other lending institutions. Small
 14 loans **and unsecured consumer installment loans** are regulated
 15 by the State of Indiana Department of Financial Institutions.
 16 A borrower may rescind a small loan **or an unsecured consumer**
 17 **installment loan** without cost by paying the cash amount of the
 18 principal of the ~~small~~ loan to the lender not later than the end of
 19 the business day immediately following the day on which the
 20 ~~small~~ loan was made."

21 (3) The statement required in subsection (2) must be in:

- 22 (a) 14 point bold face type in the loan documents; and
- 23 (b) not less than one (1) inch bold print in the lending area of the
 24 business location.

25 (4) When a borrower enters into a small loan **or an unsecured**
 26 **consumer installment loan**, the lender shall provide the borrower with
 27 a pamphlet approved by the department that describes:

- 28 (a) the availability of debt management and credit counseling
 29 services; ~~and~~
- 30 (b) the borrower's rights and responsibilities in the transaction;
 31 **and**
- 32 (c) **the availability of the 211 telephone dialing code for access**
 33 **to human services information and referrals, including**
 34 **information on and referrals to governmental or nonprofit**
 35 **organizations that assist persons in paying for housing costs,**
 36 **utility bills, and food.**

37 (5) For each license issued under this chapter, a lender shall
 38 remit to the department at the time of license renewal under
 39 IC 24-4.5-3-503.6:

- 40 (a) **an additional annual fee, paid separately, in the amount of**
 41 **one thousand dollars (\$1,000) per license; plus**
- 42 (b) **an additional one thousand dollars (\$1,000) per branch**



1 **location in Indiana from which the lender makes small loans**
 2 **or unsecured consumer installment loans under this chapter,**
 3 **after the lender's first Indiana location from which the lender**
 4 **makes small loans or unsecured consumer installment loans**
 5 **under this chapter;**

6 **to be held by the department in a segregated fund and used**
 7 **exclusively, in the department's discretion, for providing or**
 8 **supporting financial education programs for the benefit of Indiana**
 9 **consumers. A lender may not pass any part of the amounts**
 10 **required by this subsection onto borrowers by imposing an**
 11 **additional charge in connection with any small loan or unsecured**
 12 **consumer installment loan, or through any charge authorized**
 13 **under section 201 or 201.5 of this chapter.**

14 SECTION 18. IC 24-4.5-7-401, AS AMENDED BY P.L.186-2015,
 15 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2018]: Sec. 401. (1) A small loan may not be made for a term
 17 of less than fourteen (14) days.

18 (2) If five (5) consecutive small loans have been made to a borrower
 19 after the borrower's initial small loan, another small loan may not be
 20 made to that borrower within seven (7) days after the fifth consecutive
 21 small loan is paid in full. After the borrower's fifth consecutive small
 22 loan, the balance must be paid in full.

23 (3) Subject to subsection (4), whenever a borrower has entered into
 24 an initial small loan followed by three (3) consecutive small loans, the
 25 lender shall offer the borrower the option to repay:

26 (a) the third consecutive small loan; and

27 (b) subject to subsection (2), any small loan entered into after the
 28 third consecutive small loan;

29 under an extended payment plan. At the time of execution of a small
 30 loan described in subdivision (a) or (b), the lender shall disclose to the
 31 borrower the extended payment plan option by providing the borrower
 32 a written description of the extended payment plan option in a separate
 33 disclosure document approved by the director.

34 (4) A lender shall offer an extended payment plan under subsection
 35 (3) under the following terms and conditions:

36 (a) A borrower shall be permitted to request an extended payment
 37 plan at any time during the term of a third or subsequent
 38 consecutive small loan if the borrower has not defaulted on the
 39 outstanding small loan.

40 (b) An extended payment plan must allow the outstanding small
 41 loan to be paid in at least four (4) equal installments over a period
 42 of not less than sixty (60) days.



- 1 (c) An agreement for an extended payment plan may not require
- 2 a borrower to pay any amount before the original maturity date of
- 3 the outstanding small loan.
- 4 (d) The lender may not assess any fee or charge on a borrower for
- 5 entering into an extended payment plan.
- 6 (e) An agreement for an extended payment plan must be in
- 7 writing and acknowledged by both the borrower and the lender.
- 8 (f) A borrower may not enter into another small loan transaction
- 9 while engaged in an extended payment plan.
- 10 (g) A lender may not compel or require a borrower to pay off an
- 11 outstanding small loan that is eligible for an extended payment
- 12 plan and to subsequently enter into a new small loan with the
- 13 lender if the borrower and lender have not entered into an
- 14 extended payment plan with respect to the eligible outstanding
- 15 small loan.

16 (5) An agreement for an extended payment plan under subsection
 17 (3):

- 18 (a) shall be considered an extension of the outstanding small loan;
- 19 and
- 20 (b) may not be considered a new loan.

21 **(6) A lender shall not make a small loan to a borrower within**
 22 **seven (7) days after an unsecured consumer installment loan made**
 23 **to the borrower is paid in full.**

24 SECTION 19. IC 24-4.5-7-401.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2018]: **Sec. 401.5. (1) An unsecured consumer**
 27 **installment loan may not be made for a term of:**

- 28 (a) less than three (3) months; or
- 29 (b) more than twelve (12) months.

30 **(2) If a consecutive unsecured consumer installment loan has**
 31 **been made to a borrower after the borrower's initial unsecured**
 32 **consumer installment loan, another unsecured consumer**
 33 **installment loan may not be made to that borrower within seven (7)**
 34 **days after the consecutive unsecured consumer installment loan is**
 35 **paid in full. After a consecutive unsecured consumer installment**
 36 **loan is made, the balance must be paid in full.**

37 **(3) A lender shall not make an unsecured consumer installment**
 38 **loan to a borrower within seven (7) days after a small loan made to**
 39 **the borrower is paid in full.**

40 SECTION 20. IC 24-4.5-7-402, AS AMENDED BY P.L.27-2012,
 41 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2018]: Sec. 402. (1) A lender is prohibited from making a



- 1 small loan to a borrower if the total of:
- 2 (a) the principal amount and finance charges of the small loan to
- 3 be issued; plus
- 4 (b) any other small loan balances that the borrower has
- 5 outstanding with any lender;
- 6 exceeds twenty percent (20%) of the borrower's monthly gross income.
- 7 (2) A ~~small loan may be secured by only~~ **lender shall not require**
- 8 **a borrower to provide more than** one (1):
- 9 (a) check; or
- 10 (b) authorization to debit the borrower's account;
- 11 per small loan. The check or electronic debit may not exceed the
- 12 amount advanced to or on behalf of the borrower plus loan finance
- 13 charges contracted for and permitted.
- 14 (3) A borrower may make partial payments in any amount on the
- 15 small loan without charge at any time before the due date of the small
- 16 loan.
- 17 (4) After any payment is made on a small loan, whether the payment
- 18 is made in part or in full before, on, or after the due date of the small
- 19 loan, the lender shall give a signed and dated receipt to the borrower
- 20 making a payment showing the amount paid and the balance due on the
- 21 small loan.
- 22 (5) The lender shall provide to each borrower a copy of the required
- 23 loan documents before the disbursement of the loan proceeds.
- 24 (6) A borrower may rescind a small loan without cost by paying the
- 25 cash amount of the principal of the small loan to the lender not later
- 26 than the end of the business day immediately following the day on
- 27 which the small loan was made.
- 28 (7) A lender shall not enter into a renewal with a borrower. If a loan
- 29 is paid in full, a subsequent loan is not a renewal.
- 30 SECTION 21. IC 24-4.5-7-402.5 IS ADDED TO THE INDIANA
- 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2018]: **Sec. 402.5. (1) A lender is prohibited**
- 33 **from making an unsecured consumer installment loan to a**
- 34 **borrower if the total monthly payment due with respect to the**
- 35 **unsecured consumer installment loan exceeds twenty percent**
- 36 **(20%) of the borrower's monthly gross income.**
- 37 (2) A lender shall not require a borrower to provide more than
- 38 one (1):
- 39 (a) check; or
- 40 (b) authorization to debit the borrower's account;
- 41 per installment payment for each unsecured consumer installment
- 42 loan. The check or electronic debit may not exceed the amount



1 advanced to or on behalf of the borrower plus any charges
2 contracted for and permitted under section 201.5 of this chapter.

3 (3) A borrower may make partial payments in any amount on
4 an unsecured consumer installment loan without charge at any
5 time before the due date of the unsecured consumer installment
6 loan.

7 (4) After any payment is made on an unsecured consumer
8 installment loan, whether the payment is made in part or in full
9 before, on, or after the due date of any installment on the
10 unsecured consumer installment loan, the lender shall give to the
11 borrower making a payment a signed (whether by written or
12 electronic signature) and dated receipt showing the amount paid
13 and the balance due on the unsecured consumer installment loan.

14 (5) A borrower may prepay in full the unpaid balance of an
15 unsecured consumer installment loan at any time without penalty.
16 A lender may not contract for, charge, or collect a prepayment fee
17 or penalty.

18 (6) The lender shall provide to each borrower in an unsecured
19 consumer installment loan transaction a copy of the required loan
20 documents before the disbursement of the loan proceeds.

21 (7) A borrower may rescind an unsecured consumer installment
22 loan without cost by paying the cash amount of the principal of the
23 unsecured consumer installment loan to the lender not later than
24 the end of the business day immediately following the day on which
25 the unsecured consumer installment loan was made.

26 (8) A lender shall not enter into a renewal of an unsecured
27 consumer installment loan with a borrower. If a loan is paid in full,
28 a subsequent loan is not a renewal.

29 SECTION 22. IC 24-4.5-7-404, AS AMENDED BY P.L.35-2010,
30 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2018]: Sec. 404. (1) As used in this section, "commercially
32 reasonable method of verification" means a private consumer credit
33 reporting service that the department determines to be capable of
34 providing a lender with adequate verification information necessary to
35 ensure compliance with subsection (4).

36 (2) With respect to a small loan, no lender may permit a person to
37 become obligated under more than one (1) loan agreement, **including**
38 **an agreement for an unsecured consumer installment loan**, with the
39 lender at any time.

40 (3) With respect to an unsecured consumer installment loan, a
41 lender may not permit a person to become obligated under more
42 than one (1) loan agreement, **including an agreement for a small**



- 1 **loan, with the lender at any time.**
- 2 ~~(3)~~ **(4)** A lender shall not make a small loan that, when combined
- 3 with the outstanding balance on another outstanding small loan owed
- 4 to another lender, exceeds a total of ~~five six~~ hundred ~~fifty five~~ dollars
- 5 (~~\$550~~); **(\$605)**, excluding finance charges. A lender shall not make a
- 6 small loan to a borrower who has:
- 7 **(1)** two (2) or more small loans outstanding, regardless of the total
- 8 value of the small loans; **or**
- 9 **(2) an unsecured consumer installment loan outstanding,**
- 10 **regardless of the value of the unsecured consumer installment**
- 11 **loan.**
- 12 The amount of five hundred fifty dollars (\$550) in this subsection is
- 13 subject to change under the provisions on adjustment of dollar amounts
- 14 (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the
- 15 Reference Base Index to be used under this subsection is the Index for
- 16 October 2006.
- 17 **(5) A lender shall not make an unsecured consumer installment**
- 18 **loan to a borrower who has:**
- 19 **(a) an unsecured consumer installment loan outstanding,**
- 20 **regardless of the total value of the unsecured consumer**
- 21 **installment loan; or**
- 22 **(b) one (1) or more small loans outstanding, regardless of the**
- 23 **total value of the small loans.**
- 24 ~~(4)~~ **(6)** A lender complies with ~~subsection (3)~~ **subsections (4) and**
- 25 **(5)** if the lender independently verifies the total number of **any**
- 26 outstanding small loans and the total outstanding balance of those
- 27 small loans for a customer, **along with whether any unsecured**
- 28 **consumer installment loan has been made to that customer,** through
- 29 a commercially reasonable method of verification. A lender's method
- 30 of verifying whether a borrower has any outstanding small loans, **any**
- 31 **unsecured consumer installment loan,** and the total outstanding
- 32 balance of any loans will be considered commercially reasonable if the
- 33 method includes a manual investigation or an electronic query of:
- 34 (a) the lender's own records, including both records maintained at
- 35 the location where the borrower is applying for the transaction
- 36 and records maintained at other locations within the state that are
- 37 owned and operated by the lender; and
- 38 (b) an available third party data base provided by a private
- 39 consumer reporting service, subject to the identification
- 40 verification requirements set forth in subsection ~~(12)~~; **(14).**
- 41 ~~(5)~~ **(7)** The department shall monitor the effectiveness of private
- 42 consumer credit reporting services in providing the verification



1 information required under subsection ~~(4)~~: **(6)**. If the department
 2 determines that a commercially reasonable method of verification is
 3 available, the department shall:

4 (a) provide reasonable notice to all lenders identifying the
 5 commercially reasonable method of verification that is available;
 6 and

7 (b) require each lender to use, consistent with the policies of the
 8 department, the identified commercially reasonable method of
 9 verification as a means of complying with subsection ~~(4)~~: **(6)**.

10 ~~(6)~~ **(8)** If a borrower presents evidence to a lender that a loan has
 11 been discharged in bankruptcy, the lender shall cause the record of the
 12 borrower's loan to be updated in the data base described in subsection
 13 ~~(4)(b)~~ **(6)(b)** to reflect the bankruptcy discharge.

14 ~~(7)~~ **(9)** A lender shall cause the record of a borrower's loan to be
 15 updated in the data base described in subsection ~~(4)(b)~~ **(6)(b)** to reflect:

16 (a) presentment of the borrower's check for payment; or

17 (b) exercise of the borrower's authorization to debit the borrower's
 18 account.

19 If a check is returned or an authorization is dishonored because of
 20 insufficient funds in the borrower's account, the lender shall reenter the
 21 record of the loan in the data base.

22 ~~(8)~~ **(10)** A lender shall update information in a data base described
 23 in subsection ~~(4)(b)~~ **(6)(b)** to reflect partial payments made on an
 24 outstanding loan, the record of which is maintained in the data base.

25 ~~(9)~~ **(11)** If a lender ceases doing business in Indiana, the director
 26 may require the operator of the data base described in subsection ~~(4)(b)~~
 27 **(6)(b)** to remove records of the lender's loans from the operator's data
 28 base.

29 ~~(10)~~ **(12)** The director may impose a civil penalty not to exceed one
 30 hundred dollars (\$100) for each violation of:

31 (a) this section; or

32 (b) any rule or policy adopted by the director to implement this
 33 section.

34 ~~(11)~~ **(13)** The excess amount of loan finance charge provided for in
 35 agreements in violation of this section is an excess charge for purposes
 36 of the provisions concerning effect of violations on rights of parties (IC
 37 24-4.5-5-202) and the provisions concerning civil actions by the
 38 department (IC 24-4.5-6-113).

39 ~~(12)~~ **(14)** If a borrower provides the borrower's Social Security
 40 number to a lender in connection with any transaction or proposed
 41 transaction under this chapter, the lender shall:

42 (a) maintain procedures to verify that the Social Security number



1 provided is legitimate and belongs to the borrower; and
 2 (b) retain copies of any documents used to verify the borrower's
 3 Social Security number. Documentation under this subdivision
 4 may be in electronic form and the numbers may be truncated.

5 If a borrower does not have a Social Security number, the lender may
 6 require and accept another valid form of government issued
 7 identification, subject to the requirements of subdivisions (a) and (b)
 8 with respect to the government issued identification accepted.

9 SECTION 23. IC 24-4.5-7-405, AS AMENDED BY P.L.159-2017,
 10 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2018]: Sec. 405. (1) This section does not apply to a business
 12 that is licensed by the department for a purpose other than consumer
 13 loans.

14 (2) A licensee may carry on other business at a location where the
 15 licensee makes small loans **or unsecured consumer installment loans**
 16 unless the licensee carries on other business for the purpose of evasion
 17 or violation of this article.

18 SECTION 24. IC 24-4.5-7-406, AS AMENDED BY P.L.60-2016,
 19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 406. (1) An agreement with respect to a small loan
 21 **or an unsecured consumer installment loan under this chapter** may
 22 not provide for charges as a result of default by the borrower other than
 23 those specifically authorized by this chapter. A provision in a ~~small~~
 24 loan agreement in violation of this section is unenforceable.

25 (2) A lender or an assignee of a small loan **or an unsecured**
 26 **consumer installment loan** may seek only the following remedies
 27 upon default by a borrower:

28 (a) Recovery of:

- 29 (i) the contracted principal amount of the loan; and
- 30 (ii) ~~the loan finance a charge~~ **authorized under section 201**
 31 **or 201.5 of this chapter.**

32 (b) If contracted for under section 202 of this chapter, collection
 33 of a fee for:

- 34 (i) a returned check, negotiable order of withdrawal, or share
 35 draft; or
- 36 (ii) a dishonored authorization to debit the borrower's account;
 37 because of insufficient funds in the borrower's account.
- 38 (c) Collection of postjudgment interest, if awarded by a court.
- 39 (d) Collection of court costs, if awarded by a court.

40 (3) A lender or an assignee of a small loan **or an unsecured**
 41 **consumer installment loan** may not seek any of the following
 42 damages or remedies upon default by a borrower:



- 1 (a) Payment of the lender's attorney's fees.
- 2 (b) Treble damages.
- 3 (c) Prejudgment interest.
- 4 (d) Damages allowed for dishonored checks under any statute
- 5 other than this chapter.
- 6 (e) Any damages or remedies not set forth in subsection (2).
- 7 (4) A contractual agreement in a small loan transaction **or an**
- 8 **unsecured consumer installment loan transaction** must include a
- 9 notice of the following in 14 point bold type:
- 10 (a) The remedies available to a lender or an assignee under
- 11 subsection (2).
- 12 (b) The remedies and damages that a lender or an assignee is
- 13 prohibited from seeking in a ~~small~~ loan transaction under
- 14 subsection (3).
- 15 SECTION 25. IC 24-4.5-7-409, AS AMENDED BY P.L.90-2008,
- 16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2018]: Sec. 409. (1) This section applies to licensees and
- 18 unlicensed persons.
- 19 (2) A person who violates this chapter:
- 20 (a) is subject to the remedies provided in IC 24-4.5-5-202;
- 21 (b) commits a deceptive act under IC 24-5-0.5 and is subject to
- 22 the penalties listed in IC 24-5-0.5;
- 23 (c) has no right to collect, receive, or retain any principal, interest,
- 24 or other charges from a small loan **or an unsecured consumer**
- 25 **installment loan**; however, this subdivision does not apply if the
- 26 violation is the result of an accident or bona fide error of
- 27 computation; and
- 28 (d) is liable to the borrower for actual damages, statutory damages
- 29 of two thousand dollars (\$2,000) per violation, costs, and
- 30 attorney's fees; however, this subdivision does not apply if the
- 31 violation is the result of an accident or bona fide error of
- 32 computation.
- 33 The remedies described in this subsection are in addition to all other
- 34 remedies set forth in this article.
- 35 (3) The department may sue:
- 36 (a) to enjoin any conduct that constitutes or will constitute a
- 37 violation of this chapter; and
- 38 (b) for other equitable relief.
- 39 (4) The remedies provided in this section are cumulative but are not
- 40 intended to be the exclusive remedies available to a borrower. A
- 41 borrower is not required to exhaust any administrative remedies under
- 42 this section or any other applicable law.



1 SECTION 26. IC 24-4.5-7-410, AS AMENDED BY P.L.90-2008,
 2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 410. A lender making small loans **or unsecured**
 4 **consumer installment loans under this chapter**, or an assignee of a
 5 **small loan made under this chapter**, shall not commit nor cause to be
 6 committed any of the following acts:

7 (a) Threatening to use or using the criminal process in any state
 8 to collect on a **small** loan.

9 (b) Threatening to take action against a borrower that is
 10 prohibited by this chapter.

11 (c) Making a misleading or deceptive statement regarding a **small**
 12 loan or a consequence of taking a **small** loan.

13 (d) Contracting for or collecting attorney's fees on **small** loans
 14 made under this chapter.

15 (e) Altering the date or any other information on a check or an
 16 authorization to debit the borrower's account held as security.

17 (f) Using a device or agreement that the department determines
 18 would have the effect of charging or collecting more fees,
 19 charges, or interest than allowed by this chapter, including, but
 20 not limited to:

21 (i) entering a different type of transaction with the borrower;

22 (ii) entering into a sales/leaseback arrangement;

23 (iii) catalog sales;

24 (iv) entering into transactions in which a customer receives a
 25 purported cash rebate that is advanced by someone offering
 26 Internet content services, or some other product or service,
 27 when the cash rebate does not represent a discount or an
 28 adjustment of the purchase price for the product or service; or

29 (v) entering any other transaction with the borrower that is
 30 designed to evade the applicability of this chapter.

31 (g) Engaging in unfair, deceptive, or fraudulent practices in the
 32 making or collecting of a **small** loan.

33 (h) Charging to cash a check representing the proceeds of a **small**
 34 loan.

35 (i) Except as otherwise provided in this chapter:

36 (i) accepting the proceeds of a new **small** loan as payment of
 37 an existing **small** loan provided by the same lender; or

38 (ii) renewing, refinancing, or consolidating a **small** loan with
 39 the proceeds of another **small** loan made by the same lender.

40 (j) Including any of the following provisions in a loan document:

41 (i) A hold harmless clause.

42 (ii) A confession of judgment clause.



- 1 (iii) A mandatory arbitration clause, unless the terms and
 2 conditions of the arbitration have been approved by the
 3 director of the department.
- 4 (iv) An assignment of or order for payment of wages or other
 5 compensation for services.
- 6 (v) A provision in which the borrower agrees not to assert a
 7 claim or defense arising out of contract.
- 8 (vi) A waiver of any provision of this chapter.
- 9 (k) Selling insurance of any kind in connection with the making
 10 or collecting of a ~~small~~ loan.
- 11 (l) Entering into a renewal with a borrower.
- 12 SECTION 27. IC 24-4.5-7-412, AS AMENDED BY P.L.35-2010,
 13 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2018]: Sec. 412. Upon the receipt of a check from a borrower
 15 for a small loan **or an unsecured consumer installment loan**, unless
 16 the check is marked as void at the time of acceptance by the lender, the
 17 lender shall immediately stamp the back of the check with an
 18 endorsement that states:
- 19 "This check is being negotiated as part of a small loan (**or an**
 20 **unsecured consumer installment loan, as applicable**) under
 21 IC 24-4.5, and any holder of this check takes it subject to the
 22 claims and defenses of the maker."
- 23 SECTION 28. IC 24-4.5-7-413, AS AMENDED BY P.L.216-2013,
 24 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2018]: Sec. 413. (1) A person engaged in making small loans
 26 **or unsecured consumer installment loans** under this chapter shall
 27 post a bond to the department in the amount of fifty thousand dollars
 28 (\$50,000) for each location where small loans **or unsecured consumer**
 29 **installment loans** will be made, up to a maximum bond in an amount
 30 determined by the director.
- 31 (2) A surety bond issued under this section must:
- 32 (a) provide coverage for a lender engaged in making ~~small~~ loans
 33 under this chapter in an amount as prescribed in subsection (1);
 34 (b) be in a form prescribed by the director;
 35 (c) be in effect during the term of the lender's license under this
 36 chapter;
 37 (d) remain in effect during the two (2) years after the lender
 38 ceases offering financial services to individuals in Indiana;
 39 (e) be payable to the department for the benefit of:
 40 (i) the state; and
 41 (ii) individuals who reside in Indiana when they agree to
 42 receive financial services from the lender;



- 1 (f) be issued by a bonding, surety, or insurance company
2 authorized to do business in Indiana and rated at least "A-" by at
3 least one (1) nationally recognized investment rating service; and
4 (g) have payment conditioned upon the lender's or any of the
5 lender's employees' or agents' noncompliance with or violation of
6 this article or other applicable federal or state laws or regulations.
- 7 (3) The director may adopt rules or guidance documents with
8 respect to the requirements for a surety bond as necessary to
9 accomplish the purposes of this chapter.
- 10 (4) If the principal amount of a surety bond required under this
11 section is reduced by payment of a claim or judgment, the lender for
12 whom the bond is issued shall immediately notify the director of the
13 reduction and, not later than thirty (30) days after notice by the
14 director, file a new or an additional surety bond in an amount set by the
15 director. The amount of the new or additional bond set by the director
16 must be at least the amount of the bond before payment of the claim or
17 judgment.
- 18 (5) If for any reason a surety terminates a bond issued under this
19 section, the lender shall immediately notify the department and file a
20 new surety bond in an amount as prescribed in subsection (1).
- 21 (6) Cancellation of a surety bond issued under this section does not
22 affect any liability incurred or accrued during the period when the
23 surety bond was in effect.
- 24 (7) The director may obtain satisfaction from a surety bond issued
25 under this section if the director incurs expenses, issues a final order,
26 or recovers a final judgment under this chapter.
- 27 (8) Notices required under this section must be in writing and
28 delivered by certified mail, return receipt requested and postage
29 prepaid, or by overnight delivery using a nationally recognized carrier.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1319, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1319 as introduced.)

BURTON

Committee Vote: yeas 8, nays 5.

