



January 25, 2019

HOUSE BILL No. 1136

DIGEST OF HB 1136 (Updated January 22, 2019 1:43 pm - DI 101)

Citations Affected: IC 24-4.5; noncode.

Synopsis: Uniform Consumer Credit Code. Makes the following changes to the Uniform Consumer Credit Code (UCCC): (1) Amends the provisions authorizing specified additional charges for consumer credit sales and consumer loans to: (A) permit a seller or a lender, as applicable, to contract for and receive a charge not to exceed \$10 for procuring a credit report; and (B) in the case of a revolving loan account, permit a lender to contract for and receive a transaction fee that may not exceed the greater of: (i) 2% of the amount of the transaction; or (ii) \$10. (Current law authorizes the lender to charge a transaction fee in the lesser of these two amounts.) (2) Replaces the authorized \$5 delinquency charge (subject to indexing by the department of financial institutions) for consumer credit sales and consumer loans with a nonindexed delinquency charge of: (A) \$5, if installments are due every 14 days or less; (B) \$25, if installments are due every 15 days or more; or (C) \$25, in the case of a single installment due at least 30 days after the sale or loan is made. (3) Specifies that a creditor may not charge or collect a delinquency charge on a payment that: (A) is paid within 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 a consumer credit sale or a consumer loan is attributable to a delinquency charge for an earlier installment. Urges the legislative council to assign to an interim study committee, for study during the 2019 interim, the topic of revisions to the UCCC. Sets forth issues for consideration by an interim study committee assigned this topic.

Effective: Upon passage; July 1, 2019.

Burton

January 7, 2019, read first time and referred to Committee on Financial Institutions.
January 24, 2019, amended, reported — Do Pass.

HB 1136—LS 6450/DI 101



January 25, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1136

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

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

1 SECTION 1. IC 24-4.5-2-202, AS AMENDED BY P.L.69-2018,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 202. (1) In addition to the credit service charge
4 permitted by this chapter, a seller may contract for and receive any of
5 the following additional charges in connection with a consumer credit
6 sale:
7 (a) Official fees and taxes.
8 (b) Charges for insurance as described in subsection (2).
9 (c) Notwithstanding provisions of the Consumer Credit Protection
10 Act (15 U.S.C. 1601 et seq.) concerning disclosure, charges for
11 other benefits, including insurance, conferred on the consumer, if
12 the benefits are of value to the consumer and if the charges are
13 reasonable in relation to the benefits, and are excluded as
14 permissible additional charges from the credit service charge.
15 With respect to any additional charge not specifically provided for
16 in this section, to be a permitted charge under this subsection the
17 seller must submit a written explanation of the charge to the
18 department indicating how the charge would be assessed and the

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1 value or benefit to the consumer. Supporting documents may be
2 required by the department. The department shall determine
3 whether the charge would be of benefit to the consumer and is
4 reasonable in relation to the benefits.

5 (d) A charge not to exceed twenty-five dollars (\$25) for each
6 returned payment by a bank or other depository institution of a
7 dishonored check, electronic funds transfer, negotiable order of
8 withdrawal, or share draft issued by the consumer.

9 (e) Annual participation fees assessed in connection with a
10 revolving charge account. Annual participation fees must:

11 (i) be reasonable in amount;

12 (ii) bear a reasonable relationship to the seller's costs to
13 maintain and monitor the charge account; and

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

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

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

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

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

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

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

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

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

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

41 (v) The charge may not be assessed with respect to any
42 payment for which a delinquency charge has been assessed



- 1 under section 203.5 of this chapter.
- 2 (h) A charge for a GAP agreement, subject to subsection (4).
- 3 **(i) A charge not to exceed ten dollars (\$10) for procuring a**
- 4 **credit report.**
- 5 (2) An additional charge may be made for insurance written in
- 6 connection with the sale, other than insurance protecting the seller
- 7 against the consumer's default or other credit loss:
- 8 (a) with respect to insurance against loss of or damage to
- 9 property, or against liability, if the seller furnishes a clear and
- 10 specific statement in writing to the consumer, setting forth the
- 11 cost of the insurance if obtained from or through the seller and
- 12 stating that the consumer may choose the person, subject to the
- 13 seller's reasonable approval, through whom the insurance is to be
- 14 obtained; and
- 15 (b) with respect to consumer credit insurance providing life,
- 16 accident, unemployment or other loss of income, or health
- 17 coverage, if the insurance coverage is not a factor in the approval
- 18 by the seller of the extension of credit and is clearly disclosed in
- 19 writing to the consumer, and if, in order to obtain the insurance in
- 20 connection with the extension of credit, the consumer gives
- 21 specific, affirmative, written indication of the desire to do so after
- 22 written disclosure of the cost.
- 23 (3) With respect to a subordinate lien mortgage transaction, the
- 24 following closing costs, if the costs are bona fide, reasonable in
- 25 amount, and not for the purpose of circumvention or evasion of this
- 26 article:
- 27 (a) fees for title examination, abstract of title, title insurance,
- 28 property surveys, or similar purposes;
- 29 (b) fees for preparing deeds, mortgages, and reconveyance,
- 30 settlement, and similar documents;
- 31 (c) notary and credit report fees;
- 32 (d) amounts required to be paid into escrow or trustee accounts if
- 33 the amounts would not otherwise be included in the credit service
- 34 charge; and
- 35 (e) appraisal fees.
- 36 (4) An additional charge may be made for a GAP agreement, subject
- 37 to the following:
- 38 (a) A GAP agreement or GAP coverage may not be required by
- 39 the seller, and that fact must be disclosed in writing to the
- 40 consumer.
- 41 (b) The charge for the initial term of coverage under the GAP
- 42 agreement must be disclosed in writing to the consumer. The



1 charge may be disclosed on a unit-cost basis only in the case of
 2 the following transactions:

- 3 (i) Revolving charge accounts.
 4 (ii) Closed-end credit transactions, if the request for coverage
 5 is made by mail or telephone.
 6 (iii) Closed-end credit transactions, if the GAP agreement
 7 limits the total amount of indebtedness eligible for coverage.
 8 (c) If the term of coverage under the GAP agreement is less than
 9 the term of the consumer credit sale, the term of coverage under
 10 the GAP agreement must be disclosed in writing to the consumer.
 11 (d) The consumer must sign or initial an affirmative written
 12 request for coverage after receiving all required disclosures.
 13 (e) The GAP agreement must include the following:
 14 (i) In the case of GAP coverage for a new motor vehicle, the
 15 manufacturer's suggested retail price (MSRP) for the motor
 16 vehicle.
 17 (ii) In the case of GAP coverage for a used motor vehicle, the
 18 National Automobile Dealers Association (NADA) average
 19 retail value for the motor vehicle.
 20 (iii) The name of the financing entity taking assignment of the
 21 agreement.
 22 (iv) The name and address of the consumer.
 23 (v) The name of the creditor selling the agreement.
 24 (vi) Information advising the consumer that the consumer may
 25 be able to obtain similar coverage from the consumer's primary
 26 insurance carrier.
 27 (vii) A coverage provision that includes a minimum deductible
 28 of five hundred dollars (\$500).
 29 (viii) A provision providing for a minimum thirty (30) day
 30 free-look period.
 31 (ix) In the case of a consumer credit sale involving a motor
 32 vehicle, a provision excluding the sale of GAP coverage if the
 33 amount financed under the consumer credit sale (not including
 34 the cost of the GAP agreement, the cost of any credit
 35 insurance, and the cost of any warranties or service
 36 agreements) is less than eighty percent (80%) of the
 37 manufacturer's suggested retail price (MSRP), in the case of a
 38 new motor vehicle, or **of** the National Automobile Dealers
 39 Association (NADA) average retail value, in the case of a used
 40 motor vehicle.
 41 (x) In the case of a GAP agreement in which the charge for the
 42 agreement exceeds four hundred dollars (\$400), specific



- 1 instructions that may be used by the consumer to cancel the
 2 agreement and obtain a refund of the unearned GAP charge
 3 before prepayment in full, in accordance with the procedures,
 4 and subject to the conditions, set forth in subdivision (f).
 5 (f) If the charge for the GAP agreement exceeds four hundred
 6 dollars (\$400), the consumer is entitled to cancel the agreement
 7 and obtain a refund of the unearned GAP charge before
 8 prepayment in full. Refunds of unearned GAP charges shall be
 9 made subject to the following conditions:
 10 (i) A refund of the charge for a GAP agreement must be
 11 calculated using a method that is no less favorable to the
 12 consumer than a refund calculated on a pro rata basis.
 13 (ii) The consumer is entitled to a refund of the unearned GAP
 14 agreement charge as outlined in the GAP agreement.
 15 (iii) The seller of the GAP agreement is responsible for
 16 making a timely refund to the consumer of unearned GAP
 17 agreement charges under the terms and conditions of the GAP
 18 agreement.
 19 (g) Upon prepayment in full of the consumer credit sale:
 20 (i) the GAP coverage is automatically terminated; and
 21 (ii) the seller of the GAP agreement must issue a refund in
 22 accordance with subdivision (f).
 23 (h) A creditor that sells GAP agreements must:
 24 (i) insure its GAP agreement obligations under a contractual
 25 liability insurance policy issued by an insurer authorized to
 26 engage in the insurance business in Indiana; and
 27 (ii) retain appropriate records, as required under this article,
 28 regarding GAP agreements sold, refunded, and expired.
 29 (5) As used in this section, "expedited payment service" means a
 30 service offered to a consumer to ensure that a payment made by the
 31 consumer with respect to a consumer credit sale will be reflected as
 32 paid and posted on an expedited basis.
 33 (6) As used in this section:
 34 (a) "guaranteed asset protection agreement";
 35 (b) "guaranteed auto protection agreement"; or
 36 (c) "GAP agreement";
 37 means, with respect to consumer credit sales involving motor vehicles
 38 or other titled assets, an agreement in which the seller agrees to cancel
 39 or waive all or part of the outstanding debt after all property insurance
 40 benefits have been exhausted after the occurrence of a specified event.
 41 (7) As used in this section, "skip-a-payment service" means a
 42 service that:



1 (a) is offered by a creditor to a consumer; and

2 (b) permits the consumer to miss or skip a payment due under a
3 consumer credit sale without resulting in default.

4 SECTION 2. IC 24-4.5-2-203.5 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 203.5. Delinquency
6 Charges — (1) With respect to a consumer credit sale, refinancing, or
7 consolidation, the parties may contract for a delinquency charge of not
8 more than:

9 (a) five dollars (\$5) on any installment or minimum payment due
10 **that is not paid in full within ten (10) days after its scheduled due**
11 **date, if installments under the consumer credit sale,**
12 **refinancing, or consolidation are due every fourteen (14) days**
13 **or less;**

14 (b) twenty-five dollars (\$25) on any installment or minimum
15 payment due that is not paid in full within ten (10) days after
16 its scheduled due date, if installments under the consumer
17 credit sale, refinancing, or consolidation are due every fifteen
18 (15) days or more; or

19 (c) twenty-five dollars (\$25) on any installment or minimum
20 payment due that is not paid in full within ten (10) days after
21 its scheduled due date, in the case of a consumer credit sale,
22 refinancing, or consolidation that is payable in a single
23 installment that is due at least thirty (30) days after the
24 consumer credit sale, refinancing, or consolidation is made.

25 (2) A delinquency charge under this section may be collected only
26 once on an installment however long it remains in default. A
27 delinquency charge on consumer credit sales made under a revolving
28 charge account may be applied each month that the payment is less
29 than the minimum required payment. A delinquency charge may be
30 collected any time after it accrues. No delinquency charge may be
31 collected if the installment has been deferred and a deferral charge
32 (IC 24-4.5-2-204) has been paid or incurred.

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

37 (a) an earlier installment; or

38 (b) payment due;

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

42 (3) A creditor may not, directly or indirectly, charge or collect



1 **a delinquency charge on a payment that:**

2 **(a) is paid within ten (10) days after its scheduled due date;**

3 **and**

4 **(b) is otherwise a full payment of the payment due for the**
5 **applicable installment period;**

6 **if the only delinquency with respect to the consumer credit sale,**
7 **refinancing, or consolidation is attributable to a delinquency**
8 **charge assessed on an earlier installment.**

9 (4) If two (2) **or more** installments, or parts of two (2) **or more**
10 installments, of a precomputed consumer credit sale are in default for
11 ten (10) days or more, the creditor may elect to convert the consumer
12 credit sale from a precomputed consumer credit sale to a consumer
13 credit sale in which the credit service charge is based on unpaid
14 balances. A creditor that makes this election shall make a rebate under
15 the provisions on rebates upon prepayment under IC 24-4.5-2-210 as
16 of the maturity date of the first delinquent installment, and thereafter
17 may make a credit service charge as authorized by the provisions on
18 credit service charges for consumer credit sales under IC 24-4.5-2-201.
19 The amount of the rebate shall not be reduced by the amount of any
20 permitted minimum charge under IC 24-4.5-2-210. Any deferral
21 charges made on installments due at or after the maturity date of the
22 first delinquent installment shall be rebated, and no further deferral
23 charges shall be made.

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

27 ~~(6) (5) If the parties provide by contract for a delinquency charge~~
28 ~~that is subject to change, the seller shall disclose in the contract that the~~
29 ~~amount of the delinquency charge is subject to change as allowed by~~
30 ~~IC 24-4.5-1-106.~~

31 SECTION 3. IC 24-4.5-3-202, AS AMENDED BY P.L.69-2018,
32 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2019]: Sec. 202. (1) In addition to the loan finance charge
34 permitted by this chapter, a lender may contract for and receive the
35 following additional charges in connection with a consumer loan:

36 (a) Official fees and taxes.

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

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

40 (i) be reasonable in amount;

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



- 1 (iii) not be assessed for the purpose of circumvention or
 2 evasion of this article, as determined by the department.
- 3 (d) With respect to a debt secured by an interest in land, the
 4 following closing costs, if they are bona fide, reasonable in
 5 amount, and not for the purpose of circumvention or evasion of
 6 this article:
- 7 (i) Fees for title examination, abstract of title, title insurance,
 8 property surveys, or similar purposes.
- 9 (ii) Fees for preparing deeds, mortgages, and reconveyance,
 10 settlement, and similar documents.
- 11 (iii) Notary and credit report fees.
- 12 (iv) Amounts required to be paid into escrow or trustee
 13 accounts if the amounts would not otherwise be included in
 14 the loan finance charge.
- 15 (v) Appraisal fees.
- 16 (e) Notwithstanding provisions of the Consumer Credit Protection
 17 Act (15 U.S.C. 1601 et seq.) concerning disclosure, charges for
 18 other benefits, including insurance, conferred on the debtor, if the
 19 benefits are of value to the debtor and if the charges are
 20 reasonable in relation to the benefits, and are excluded as
 21 permissible additional charges from the loan finance charge. With
 22 respect to any other additional charge not specifically provided
 23 for in this section to be a permitted charge under this subsection,
 24 the creditor must submit a written explanation of the charge to the
 25 department indicating how the charge would be assessed and the
 26 value or benefit to the debtor. Supporting documents may be
 27 required by the department. The department shall determine
 28 whether the charge would be of benefit to the debtor and is
 29 reasonable in relation to the benefits.
- 30 (f) A charge not to exceed twenty-five dollars (\$25) for each
 31 returned payment by a bank or other depository institution of a
 32 dishonored check, electronic funds transfer, negotiable order of
 33 withdrawal, or share draft issued by the debtor.
- 34 (g) With respect to a revolving loan account, a fee not to exceed
 35 twenty-five dollars (\$25) in each billing cycle during which the
 36 balance due under the revolving loan account exceeds by more
 37 than one hundred dollars (\$100) the maximum credit limit for the
 38 account established by the lender.
- 39 (h) With respect to a revolving loan account, a transaction fee that
 40 may not exceed the ~~lesser~~ **greater** of the following:
- 41 (i) Two percent (2%) of the amount of the transaction.
- 42 (ii) Ten dollars (\$10).



- 1 (i) A charge not to exceed twenty-five dollars (\$25) for a
 2 skip-a-payment service, subject to the following:
 3 (i) At the time of use of the service, the consumer must be
 4 given written notice of the amount of the charge and must
 5 acknowledge the amount in writing, including by electronic
 6 signature.
 7 (ii) A charge for a skip-a-payment service may not be assessed
 8 with respect to a consumer loan subject to the provisions on
 9 rebate upon prepayment that are set forth in section 210 of this
 10 chapter.
 11 (iii) A charge for a skip-a-payment service may not be
 12 assessed with respect to any payment for which a delinquency
 13 charge has been assessed under section 203.5 of this chapter.
 14 (j) A charge not to exceed ten dollars (\$10) for an optional
 15 expedited payment service, subject to the following:
 16 (i) The charge may be assessed only upon request by the
 17 consumer to use the expedited payment service.
 18 (ii) The amount of the charge must be disclosed to the
 19 consumer at the time of the consumer's request to use the
 20 expedited payment service.
 21 (iii) The consumer must be informed that the consumer retains
 22 the option to make a payment by traditional means.
 23 (iv) The charge may not be established in advance, through
 24 any agreement with the consumer, as the expected method of
 25 payment.
 26 (v) The charge may not be assessed with respect to any
 27 payment for which a delinquency charge has been assessed
 28 under section 203.5 of this chapter.
 29 (k) This subdivision applies to a CPAP transaction offered or
 30 entered into after June 30, 2016. With respect to a CPAP
 31 transaction, a CPAP provider may impose the following charges
 32 and fees:
 33 (i) A fee calculated at an annual rate that does not exceed
 34 thirty-six percent (36%) of the funded amount.
 35 (ii) A servicing charge calculated at an annual rate that does
 36 not exceed seven percent (7%) of the funded amount.
 37 (iii) If the funded amount of the CPAP transaction is less than
 38 five thousand dollars (\$5,000), a one (1) time charge that does
 39 not exceed two hundred fifty dollars (\$250) for obtaining and
 40 preparing documents.
 41 (iv) If the funded amount of the CPAP transaction is at least
 42 five thousand dollars (\$5,000), a one (1) time charge that does



1 not exceed five hundred dollars (\$500) for obtaining and
 2 preparing documents.
 3 A CPAP provider may not assess, or collect from the consumer
 4 claimant, any other fee or charge in connection with a CPAP
 5 transaction, including any finance charges under section 201 or
 6 508 of this chapter.
 7 (l) A charge for a GAP agreement, subject to subsection (3).
 8 (m) With respect to consumer loans made by a person exempt
 9 from licensing under IC 24-4.5-3-502(1), a charge for a debt
 10 cancellation agreement, subject to the following:
 11 (i) A debt cancellation agreement or debt cancellation
 12 coverage may not be required by the lender, and that fact must
 13 be disclosed in writing to the consumer.
 14 (ii) The charge for the initial term of coverage under the debt
 15 cancellation agreement must be disclosed in writing to the
 16 consumer. The charge may be disclosed on a unit-cost basis
 17 only in the case of revolving loan accounts, closed-end credit
 18 transactions if the request for coverage is made by mail or
 19 telephone, and closed-end credit transactions if the debt
 20 cancellation agreement limits the total amount of indebtedness
 21 eligible for coverage.
 22 (iii) If the term of coverage under the debt cancellation
 23 agreement is less than the term of the consumer loan, the term
 24 of coverage under the debt cancellation agreement must be
 25 disclosed in writing to the consumer.
 26 (iv) The consumer must sign or initial an affirmative written
 27 request for coverage after receiving all required disclosures.
 28 (v) If debt cancellation coverage for two (2) or more events is
 29 provided for in a single charge under a debt cancellation
 30 agreement, the entire charge may be excluded from the loan
 31 finance charge and imposed as an additional charge under this
 32 section if at least one (1) of the events is the loss of life, health,
 33 or income.
 34 **(n) A charge not to exceed ten dollars (\$10) for procuring a**
 35 **credit report.**
 36 The additional charges provided for in subdivisions (f) through (k) **and**
 37 **in subdivision (n)** are not subject to refund or rebate.
 38 (2) An additional charge may be made for insurance in connection
 39 with the loan, other than insurance protecting the lender against the
 40 debtor's default or other credit loss:
 41 (a) with respect to insurance against loss of or damage to property
 42 or against liability, if the lender furnishes a clear and specific



1 statement in writing to the debtor, setting forth the cost of the
2 insurance if obtained from or through the lender and stating that
3 the debtor may choose the person, subject to the lender's
4 reasonable approval, through whom the insurance is to be
5 obtained; and

6 (b) with respect to consumer credit insurance providing life,
7 accident, unemployment or other loss of income, or health
8 coverage, if the insurance coverage is not a factor in the approval
9 by the lender of the extension of credit and this fact is clearly
10 disclosed in writing to the debtor, and if, in order to obtain the
11 insurance in connection with the extension of credit, the debtor
12 gives specific affirmative written indication of the desire to do so
13 after written disclosure of the cost of the insurance.

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

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

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

23 (i) Revolving loan accounts.

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

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

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

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

33 (e) The GAP agreement must include the following:

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

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

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

42 (iv) The name and address of the consumer.



- 1 (v) The name of the lender selling the agreement.
- 2 (vi) Information advising the consumer that the consumer may
- 3 be able to obtain similar coverage from the consumer's primary
- 4 insurance carrier.
- 5 (vii) A coverage provision that includes a minimum deductible
- 6 of five hundred dollars (\$500).
- 7 (viii) A provision providing for a minimum thirty (30) day trial
- 8 period.
- 9 (ix) In the case of a consumer loan made with respect to a
- 10 motor vehicle, a provision excluding the sale of GAP coverage
- 11 if the amount financed under the consumer loan (not including
- 12 the cost of the GAP agreement, the cost of any credit
- 13 insurance, and the cost of any warranties or service
- 14 agreements) is less than eighty percent (80%) of the
- 15 manufacturer's suggested retail price (MSRP), in the case of a
- 16 new motor vehicle, or of the National Automobile Dealers
- 17 Association (NADA) average retail value, in the case of a used
- 18 motor vehicle.
- 19 (x) In the case of a GAP agreement in which the charge for the
- 20 agreement exceeds four hundred dollars (\$400), specific
- 21 instructions that may be used by the consumer to cancel the
- 22 agreement and obtain a refund of the unearned GAP charge
- 23 before prepayment in full, in accordance with the procedures,
- 24 and subject to the conditions, set forth in subdivision (f).
- 25 (f) If the charge for the GAP agreement exceeds four hundred
- 26 dollars (\$400), the consumer is entitled to cancel the agreement
- 27 and obtain a refund of the unearned GAP charge before
- 28 prepayment in full. Refunds of unearned GAP charges shall be
- 29 made subject to the following conditions:
- 30 (i) A refund of the charge for a GAP agreement must be
- 31 calculated using a method that is no less favorable to the
- 32 consumer than a refund calculated on a pro rata basis.
- 33 (ii) The consumer is entitled to a refund of the unearned GAP
- 34 agreement charge as outlined in the GAP agreement.
- 35 (iii) The seller of the GAP agreement, or the seller's assignee,
- 36 is responsible for making a timely refund to the consumer of
- 37 unearned GAP agreement charges under the terms and
- 38 conditions of the GAP agreement.
- 39 (g) Upon prepayment in full of the consumer loan:
- 40 (i) the GAP coverage is automatically terminated; and
- 41 (ii) the seller of the GAP agreement must issue a refund in
- 42 accordance with subdivision (f).



1 (h) A lender that sells GAP agreements must:

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

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

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

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

15 (6) As used in this section:

16 (a) "guaranteed asset protection agreement";

17 (b) "guaranteed auto protection agreement"; or

18 (c) "GAP agreement";

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

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

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

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

28 SECTION 4. IC 24-4.5-3-203.5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 203.5. Delinquency
30 Charges — (1) With respect to a consumer loan, refinancing, or
31 consolidation, the parties may contract for a delinquency charge of not
32 more than:

33 (a) five dollars (\$5) on any installment or minimum payment due
34 **that is not paid in full within ten (10) days after its scheduled due**
35 **date, if installments under the consumer loan, refinancing, or**
36 **consolidation are due every fourteen (14) days or less;**

37 (b) **twenty-five dollars (\$25) on any installment or minimum**
38 **payment due that is not paid in full within ten (10) days after**
39 **its scheduled due date, if installments under the consumer**
40 **loan, refinancing, or consolidation are due every fifteen (15)**
41 **days or more; or**

42 (c) **twenty-five dollars (\$25) on any installment or minimum**



1 **payment due that is not paid in full within ten (10) days after**
 2 **its scheduled due date, in the case of a consumer loan,**
 3 **refinancing, or consolidation that is payable in a single**
 4 **installment that is due at least thirty (30) days after the**
 5 **consumer loan, refinancing, or consolidation is made.**

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

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

19 (a) an earlier installment; or

20 (b) payment due;

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

24 (3) A creditor may not, directly or indirectly, charge or collect
 25 a delinquency charge on a payment that:

26 (a) is paid within ten (10) days after its scheduled due date;
 27 and

28 (b) is otherwise a full payment of the payment due for the
 29 applicable installment period;

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

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



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

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

8 ~~(6) (5) If the parties provide by contract for a delinquency charge~~
 9 ~~that is subject to change, the lender shall disclose in the contract that~~
 10 ~~the amount of the delinquency charge is subject to change as allowed~~
 11 ~~by IC 24-4.5-1-106.~~

12 SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this**
 13 **SECTION, "UCCC" refers to the Uniform Consumer Credit Code**
 14 **codified at IC 24-4.5.**

15 **(b) The legislative council is urged to assign to an appropriate**
 16 **interim study committee the task of studying revisions to the**
 17 **Uniform Consumer Credit Code. An interim study committee**
 18 **assigned a study under this SECTION may consider the following:**

19 **(1) Eliminating indexing provisions for the adjustment of**
 20 **specified dollar amounts throughout the UCCC.**

21 **(2) Codifying dollar amounts subject to indexing under the**
 22 **current statute, including dollar amounts for authorized fees**
 23 **and charges.**

24 **(3) Changing the authorized credit service charge for**
 25 **consumer credit sales and the authorized finance charge for**
 26 **consumer loans.**

27 **(4) Eliminating supervised loans.**

28 **(5) Changing how delinquency charges are assessed.**

29 **(6) Other changes to the UCCC recommended by lenders,**
 30 **consumers, the department of financial institutions, and other**
 31 **stakeholders.**

32 **(c) This SECTION expires January 1, 2020.**

33 SECTION 6. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1136, 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 the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 24-4.5-2-202, AS AMENDED BY P.L.69-2018, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 202. (1) In addition to the credit service charge permitted by this chapter, a seller may contract for and receive any of the following additional charges in connection with a consumer credit sale:

- (a) Official fees and taxes.
- (b) Charges for insurance as described in subsection (2).
- (c) 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 consumer, if the benefits are of value to the consumer and if the charges are reasonable in relation to the benefits, and are excluded as permissible additional charges from the credit service charge. With respect to any additional charge not specifically provided for in this section, to be a permitted charge under this subsection the seller 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 consumer. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the consumer and is reasonable in relation to the benefits.
- (d) 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 consumer.
- (e) Annual participation fees assessed in connection with a revolving charge account. Annual participation fees must:
 - (i) be reasonable in amount;
 - (ii) bear a reasonable relationship to the seller's costs to maintain and monitor the charge account; and



- (iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.
 - (f) 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 credit sale 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.
 - (g) 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.
 - (h) A charge for a GAP agreement, subject to subsection (4).
 - (i) A charge not to exceed ten dollars (\$10) for procuring a credit report.**
- (2) An additional charge may be made for insurance written in connection with the sale, other than insurance protecting the seller against the consumer's default or other credit loss:
- (a) with respect to insurance against loss of or damage to property, or against liability, if the seller furnishes a clear and specific statement in writing to the consumer, setting forth the cost of the insurance if obtained from or through the seller and stating that the consumer may choose the person, subject to the seller'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 seller of the extension of credit and is clearly disclosed in writing to the consumer, and if, in order to obtain the insurance in connection with the extension of credit, the consumer gives specific, affirmative, written indication of the desire to do so after written disclosure of the cost.

(3) With respect to a subordinate lien mortgage transaction, the following closing costs, if the costs are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

- (a) fees for title examination, abstract of title, title insurance, property surveys, or similar purposes;
- (b) fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents;
- (c) notary and credit report fees;
- (d) amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the credit service charge; and
- (e) appraisal fees.

(4) 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 seller, 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 charge 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 credit sale, 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.
 - (iv) The name and address of the consumer.
 - (v) The name of the creditor 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 free-look period.
 - (ix) In the case of a consumer credit sale involving a motor vehicle, a provision excluding the sale of GAP coverage if the amount financed under the consumer credit sale (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 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 credit sale:
 - (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 creditor 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.

(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 credit sale 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 credit sales involving motor vehicles or other titled assets, an agreement in which the seller 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 creditor to a consumer; and
- (b) permits the consumer to miss or skip a payment due under a consumer credit sale without resulting in default.

SECTION 2. IC 24-4.5-2-203.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 203.5. Delinquency Charges — (1) With respect to a consumer credit sale, 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 credit sale, 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 credit sale, 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 credit sale, refinancing, or consolidation that is payable in a single installment that is due at least thirty (30) days after the consumer credit sale, 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. A delinquency charge on consumer credit sales made under a revolving charge account may be applied each month that the payment is less than the minimum required payment. A delinquency charge may be collected any time after it accrues. No delinquency charge may be collected if the installment has been deferred and a deferral charge (IC 24-4.5-2-204) has been paid or incurred.

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

(a) an earlier installment; or

(b) payment due;

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

(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 credit sale, 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 consumer credit sale are in default for ten (10) days or more, the creditor may elect to convert the consumer credit sale from a precomputed consumer credit sale to a consumer credit sale in which the credit service charge is based on unpaid



balances. A creditor that makes this election shall make a rebate under the provisions on rebates upon prepayment under IC 24-4.5-2-210 as of the maturity date of the first delinquent installment, and thereafter may make a credit service charge as authorized by the provisions on credit service charges for consumer credit sales under IC 24-4.5-2-201. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge under IC 24-4.5-2-210. Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

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

~~(6) (5) If the parties provide by contract for a delinquency charge that is subject to change, the seller 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.~~

SECTION 3. IC 24-4.5-3-202, AS AMENDED BY P.L.69-2018, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 202. (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 ~~lesser~~ **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) This subdivision applies to a CPAP transaction offered or entered into after June 30, 2016. With respect to a CPAP transaction, a CPAP provider may impose the following charges and fees:

(i) A fee calculated at an annual rate that does not exceed thirty-six percent (36%) of the funded amount.

(ii) A servicing charge calculated at an annual rate that does not exceed seven percent (7%) of the funded amount.

(iii) If the funded amount of the CPAP transaction is less than five thousand dollars (\$5,000), a one (1) time charge that does not exceed two hundred fifty dollars (\$250) for obtaining and preparing documents.

(iv) If the funded amount of the CPAP transaction is at least five thousand dollars (\$5,000), a one (1) time charge that does not exceed five hundred dollars (\$500) for obtaining and preparing documents.

A CPAP provider may not assess, or collect from the consumer claimant, any other fee or charge in connection with a CPAP transaction, including any finance charges under section 201 or 508 of this chapter.

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

(m) 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.

(n) A charge not to exceed ten dollars (\$10) for procuring a credit report.

The additional charges provided for in subdivisions (f) through (k) **and in subdivision (n)** 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.

SECTION 4. IC 24-4.5-3-203.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 203.5. Delinquency Charges — (1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than:

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

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

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

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

(6) (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.".

Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1136 as introduced.)

BURTON

Committee Vote: yeas 11, nays 1.

