

HOUSE BILL No. 1411

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5; IC 28-7-5-28; IC 35-45-7-2.

Synopsis: Consumer loan finance charges. Makes the following changes to the Uniform Consumer Credit Code: (1) Provides that for a consumer loan, a lender may contract for a loan finance charge not exceeding 36% per year, in the case of a loan agreement entered into after June 30, 2021 (versus a loan finance charge not exceeding 25%, in the case of a loan agreement entered into before July 1, 2021, and in the case of any consumer loan under current law). (2) Amends the definition of "supervised loan" to provide that the term applies only to specified consumer loans for which a loan agreement is entered into before July 1, 2021. (3) Amends the provisions concerning the permitted loan finance charge for supervised loans to provide that the provisions apply only to a loan agreement (or to an agreement for the refinancing or consolidation of a loan) that is entered into before July 1, 2021. (4) Specifies that if a supervised loan entered into by a lender and a debtor before July 1, 2021, is paid in full by a new loan from the same lender after June 30, 2021, the new loan is not considered a supervised loan and is subject to provisions on the permitted loan finance charge for consumer loans. Makes conforming changes to provisions in the Indiana Code that reference the permitted finance charge for supervised loans.

Effective: July 1, 2021.

Ellington

January 14, 2021, read first time and referred to Committee on Financial Institutions and Insurance.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1411

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 24-4.5-3-201, AS AMENDED BY P.L.85-2020,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 201. Loan Finance Charge for Consumer Loans
4 other than Supervised Loans—(1) Except as provided in subsections
5 (7) and (9), with respect to a consumer loan, other than a supervised
6 loan (as defined in section 501 of this chapter), a lender may contract
7 for a loan finance charge, calculated according to the actuarial method,
8 not exceeding:
9 (a) twenty-five percent (25%) per year on the unpaid balances of
10 the principal (as defined in section 107(3) of this chapter), **in the**
11 **case of a loan agreement that:**
12 (i) **is entered into before July 1, 2021; and**
13 (ii) **is not a supervised loan (as defined in section 501 of this**
14 **chapter); or**
15 (b) **subject to subsection (3), thirty-six percent (36%) per year**
16 **on the unpaid balances of the principal (as defined in section**
17 **107(3) of this chapter), in the case of a loan agreement that is**



entered into after June 30, 2021.

(2) In the case of a loan agreement entered into before July 1, 2020, this section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

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

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(3) The following apply to a loan agreement for a consumer loan (or for the refinancing or consolidation of a consumer loan) that is entered into after June 30, 2020:

(a) The consumer loan is subject to this section, including the limitations set forth in:

(i) subsection (1) with respect to the loan finance charge; and

(ii) subsection (9)(b) with respect to the amount of the authorized nonrefundable prepaid finance charge, in the case of a consumer loan that is not secured by an interest in land.

(b) The loan finance charge authorized by this section must be:

(i) contracted for between the lender and the debtor; and

(ii) calculated by applying a rate not exceeding the rate set forth in subsection (1) to unpaid balances of the principal (as defined in section 107(3) of this chapter).

(c) A loan agreement for a precomputed consumer loan is prohibited.

(d) Subject to subsection (12), in addition to the loan finance charge authorized by subsection (1) and to any other fees permitted by this chapter, and not subject to the ~~twenty-five percent (25%)~~ rate set forth in subsection (1), the lender may contract for and receive as a condition for, or an incident to, the extension of credit a nonrefundable prepaid finance charge under subsection (9), whether the charge is:

(i) paid separately in cash or by check before or at consummation; or

(ii) withheld from the proceeds of the consumer loan.

(4) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are



disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

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

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is **either** two and eighty-three thousandths percent (2.083%), **in the case of a loan agreement described in subsection (1)(a), or three percent (3%), in the case of a loan agreement described in subsection (1)(b)**, of an amount not greater than:

- (i) the average daily balance of the debt;
- (ii) the unpaid balance of the debt on the same day of the billing cycle; or
- (iii) subject to subsection (6), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this clause and clause (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

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

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

(6) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance



charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

- (a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and
- (b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to subdivision (a) by more than eight percent (8%) of the rate calculated according to subdivision (a).

(7) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not contract for or receive a nonrefundable prepaid finance charge under subsection (9) and:

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
 - (i) is contracted for by the parties; and
 - (ii) does not exceed the rate prescribed in subsection (1); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

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

(9) Except as provided in subsection (7), and subject to subsection (12), in addition to the loan finance charge authorized by subsection (1) and to any other charges and fees permitted by this chapter, a lender may contract for and receive a nonrefundable prepaid finance charge of not more than the following:

- (a) In the case of a consumer loan that is secured by an interest in land and that:
 - (i) is not made under a revolving loan account, two percent (2%) of the loan amount; or
 - (ii) is made under a revolving loan account, two percent (2%) of the line of credit.
- (b) In the case of consumer loan that is not secured by an interest in land, fifty dollars (\$50) if the loan agreement is entered into



before July 1, 2020. If the loan agreement is entered into after June 30, 2020, not more than the following:

(i) Seventy-five dollars (\$75), in the case of a loan agreement for a principal amount which is two thousand dollars (\$2,000) or less.

(ii) One hundred fifty dollars (\$150) in the case of a loan agreement for a principal amount which is more than two thousand dollars (\$2,000) but does not exceed four thousand dollars (\$4,000).

(iii) Two hundred dollars (\$200) in the case of a loan agreement for a principal amount which is more than four thousand dollars (\$4,000).

The amounts in this subsection are not subject to change under IC 24-4.5-1-106.

(10) The nonrefundable prepaid finance charge provided for in subsection (9) is not subject to refund or rebate. However, for any loan entered into after June 30, 2020, any amount charged by the lender, other than by a lender that is a depository institution (as defined in IC 24-4.5-1-301.5(12)), under subsection (9) that exceeds the applicable amount permitted by subsection (9)(b) constitutes a violation of this article under IC 24-4.5-6-107.5(l) and is subject to refund. Any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) under subsection (9) that exceeds the applicable amount set forth in subsection (9)(b) is subject to refund.

(11) If the director determines that a lender's accrual method of accounting as applied to a consumer loan under this section involves the application of subterfuge for the purpose of circumventing this chapter, the director may conform the loan finance charge and fees for the transaction to the limitations set forth in this section and may require a refund of overcharges under IC 24-4.5-6-106(2)(a). A determination by the director under this subsection:

(a) must be in writing;

(b) shall be delivered to all parties in the transaction; and

(c) is subject to IC 4-21.5-3.

(12) At the time of consummation of a consumer loan:

(a) the loan finance charge authorized by subsection (1); and

(b) the nonrefundable prepaid finance charge authorized by subsection (9) (including any amount charged by a depository institution (as defined in IC 24-4.5-1-301.5(12)) that exceeds the applicable amount set forth in subsection (9)(b));

are subject to IC 35-45-7 and, when combined, may not exceed the rate set forth in IC 35-45-7-2.



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

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

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

(c) Subject to subdivisions (a) and (b), if a loan that is entered into by a lender and a debtor before July 1, 2020, is paid in full by a new loan from the same lender after June 30, 2020, the lender may contract for and receive a nonrefundable prepaid finance charge in the amount set forth in subsection (9)(b) for loan agreements entered into after June 30, 2020.

(14) In the case of a consumer loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the nonrefundable prepaid finance charge provided for in subsection (9).

SECTION 2. IC 24-4.5-3-501, AS AMENDED BY P.L.91-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 501. Definitions:

(1) "Supervised loan" means a consumer loan **(or the refinancing or consolidation of a consumer loan):**

(a) for which a loan agreement is entered into before July 1, 2021; and

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

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

SECTION 3. IC 24-4.5-3-508, AS AMENDED BY P.L.85-2020, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 508. Loan Finance Charge for Supervised Loans

– (1) **This section applies only to a loan agreement (or to an agreement for the refinancing or consolidation of a loan) that is entered into before July 1, 2021.** With respect to a supervised loan,



1 including a loan pursuant to a revolving loan account, a supervised
 2 lender may contract for and receive a loan finance charge not
 3 exceeding that permitted by this section.

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

6 (a) the total of:

7 (i) thirty-six percent (36%) per year on that part of the unpaid
 8 balances of the principal (as defined in section 107(3) of this
 9 chapter) which is two thousand dollars (\$2,000) or less;

10 (ii) twenty-one percent (21%) per year on that part of the
 11 unpaid balances of the principal (as defined in section 107(3)
 12 of this chapter) which is more than two thousand dollars
 13 (\$2,000) but does not exceed four thousand dollars (\$4,000);
 14 and

15 (iii) fifteen percent (15%) per year on that part of the unpaid
 16 balances of the principal (as defined in section 107(3) of this
 17 chapter) which is more than four thousand dollars (\$4,000); or

18 (b) twenty-five percent (25%) per year on the unpaid balances of
 19 the principal (as defined in section 107(3) of this chapter).

20 (3) In the case of a loan agreement entered into before July 1, 2020,
 21 this section does not limit or restrict the manner of contracting for the
 22 loan finance charge, whether by way of add-on, discount, or otherwise,
 23 so long as the rate of the loan finance charge does not exceed that
 24 permitted by this section. If the loan is precomputed:

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

27 (b) the effect of prepayment is governed by the provisions on
 28 rebate upon prepayment in section 210 of this chapter.

29 After June 30, 2020, a loan agreement may not be entered into for a
 30 precomputed supervised loan.

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

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



(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and
 (b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to subdivision (a) by more than eight percent (8%) of the rate calculated according to subdivision (a).

(6) The amounts of two thousand dollars (\$2,000) and four thousand dollars (\$4,000) in subsection (2) and thirty dollars (\$30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amount of thirty dollars (\$30), the Reference Base Index to be used is the Index for October 1992. Notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amounts of two thousand dollars (\$2,000) and four thousand dollars (\$4,000), the Reference Base Index to be used is the Index for October 2012.

(7) With respect to a supervised loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars (\$30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not assess a nonrefundable prepaid finance charge under subsection (8) and:

- (a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;
- (b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:
 - (i) is contracted for by the parties; and
 - (ii) does not exceed the rate prescribed in subsection (2); and
- (c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(8) Except as provided in subsections (7) and (10)(c), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, the lender may contract for and receive a nonrefundable prepaid finance charge of not more than fifty dollars (\$50) if the loan agreement is entered into before July 1, 2020. If the loan agreement is entered into after June 30, 2020, not more than the following:

- (a) Seventy-five dollars (\$75), in the case of a loan agreement for a principal amount which is two thousand dollars (\$2,000) or less.
- (b) One hundred fifty dollars (\$150) in the case of a loan



1 agreement for a principal amount which is more than two
 2 thousand dollars (\$2,000) but does not exceed four thousand
 3 dollars (\$4,000).

4 (c) Two hundred dollars (\$200) in the case of a loan agreement
 5 for a principal amount which is more than four thousand dollars
 6 (\$4,000).

7 The amounts in this subsection are not subject to change under
 8 IC 24-4.5-1-106.

9 (9) The nonrefundable prepaid finance charge provided for in
 10 subsection (8) is not subject to refund or rebate. However, for any
 11 supervised loan entered into after June 30, 2020, any amount charged
 12 by the lender, other than by a lender that is a depository institution (as
 13 defined in IC 24-4.5-1-301.5(12)), under subsection (8) that exceeds
 14 the applicable amount permitted by subsection (8) constitutes a
 15 violation of this article under IC 24-4.5-6-107.5(l) and is subject to
 16 refund. Any amount charged by a depository institution (as defined in
 17 IC 24-4.5-1-301.5(12)) under subsection (8) that exceeds the applicable
 18 amount set forth in subsection (8) is subject to refund.

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

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

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

30 (c) Subject to subdivisions (a) and (b), if a supervised loan that is
 31 entered into by a lender and a debtor before July 1, 2020, 2021,
 32 is paid in full by a new loan from the same lender after June 30,
 33 2020, 2021, **the new loan is not considered a supervised loan**
 34 **under this section and is subject to section 201 of this chapter.**
 35 The lender may contract for and receive a nonrefundable prepaid
 36 finance charge in the amount set forth in ~~subsection (8) for loan~~
 37 ~~agreements entered into after June 30, 2020: section 201(9)(b) of~~
 38 **this chapter for the new loan.**

39 (11) In the case of a supervised loan that is secured by an interest in
 40 land, this section does not prohibit a lender from contracting for and
 41 receiving a fee for preparing deeds, mortgages, reconveyances, and
 42 similar documents under section 202(1)(d)(ii) of this chapter, in



1 addition to the nonrefundable prepaid finance charge provided for in
2 subsection (8).

3 SECTION 4. IC 24-4.5-3-509 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 509. Use of Multiple
5 Agreements. — With respect to a consumer loan, no lender may permit
6 any person, or husband and wife, to become obligated in any way under
7 more than one loan agreement with the lender or with a person related
8 to the lender, with intent to obtain a higher rate of loan finance charge
9 than ~~would otherwise be permitted by the provisions on~~ loan finance
10 charge for ~~supervised consumer~~ loans (~~IC 24-4.5-3-508~~) **specified in**
11 **section 201(1)(b) of this chapter**, or to avoid disclosure of an annual
12 percentage rate pursuant to the provisions on disclosure (Part 3). The
13 excess amount of loan finance charge provided for in agreements in
14 violation of this section is an excess charge for the purposes of the
15 provisions on effect of violations on rights of parties (IC 24-4.5-5-202)
16 and the provisions on civil actions by the department (IC
17 24-4.5-6-113).

18 SECTION 5. IC 24-4.5-7-102, AS AMENDED BY P.L.69-2018,
19 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2021]: Sec. 102. (1) Except as otherwise provided, all
21 provisions of this article applying to consumer loans, including
22 IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

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

- 26 (a) The making of small loans.
- 27 (b) Taking assignments of small loans.
- 28 (c) Undertaking the direct collection of payments from or the
29 enforcement of rights against debtors arising from small loans.

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

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

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

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



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

3 (5) This chapter applies to:

4 (a) a lender;

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

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

10 (i) in substance a disguised loan; or

11 (ii) the application of subterfuge for the purpose of avoiding
12 this chapter.

13 (6) A loan that:

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

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

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

20 is subject to this article. The department may conform the loan finance
21 charge for a loan described in this subsection to the limitations set forth
22 in ~~IC 24-4.5-3-508(2)~~. **IC 24-4.5-3-201(1)(b).**

23 (7) Notwithstanding IC 24-4.5-1-301.5, for purposes of subsection
24 (2), a person "regularly engages" in any of the activities described in
25 subsection (2) with respect to a small loan if the person:

26 (a) performed any of the activities described in subsection (2)
27 with respect to a small loan at least one (1) time in the preceding
28 calendar year; or

29 (b) performs or will perform any of the activities described in
30 subsection (2) with respect to a small loan at least one (1) time in
31 the current calendar year if the person did not perform any of the
32 activities described in subsection (2) with respect to a small loan
33 at least one (1) time in the preceding calendar year.

34 SECTION 6. IC 24-4.5-7-411 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 411. Finance charges
36 made in compliance with this chapter are exempt from:

37 (1) IC 24-4.5-3-508, **in the case of a small loan made before**
38 **July 1, 2021;**

39 (2) **IC 24-4.5-2-201(1)(b), in the case of a small loan made**
40 **after June 30, 2021;** and

41 (3) IC 35-45-7.

42 SECTION 7. IC 28-7-5-28 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 28. (a) The maximum
 2 rate of interest charged by pawnbrokers shall be the same as the
 3 ~~maximum~~ loan finance charge for ~~supervised lenders under~~
 4 ~~IC 24-4.5-3-508(2)~~. **consumer loans specified in**
 5 **IC 24-4.5-3-201(1)(b)**. For purposes of this subsection:

6 (1) the term of a loan commences on the date on which the loan
 7 is made;

8 (2) differences in lengths of months are disregarded; and

9 (3) each day is counted as one-thirtieth (1/30) of a month.

10 The minimum term of a loan made by a pawnbroker is one (1) month.
 11 However, on loans paid in full within the first month, the pawnbroker
 12 may charge one (1) month's interest.

13 (b) Interest shall not be deducted in advance, neither shall the
 14 pawnbroker induce or permit any borrower to split up or divide any
 15 loan or loans for the purpose of evading any provisions of this chapter.

16 (c) If a pawnbroker charges or receives interest in excess of that
 17 provided in this section, or makes any charges not authorized by this
 18 chapter, the pawnbroker shall forfeit principal and interest and return
 19 the pledge upon demand of the pledger and **the pledger's** surrender of
 20 the pawn ticket, without the principal or interest. If such excessive or
 21 unauthorized charges have been paid by the pledger, the pledger may
 22 recover the same, including the principal if paid, in a civil action
 23 against the pawnbroker.

24 SECTION 8. IC 35-45-7-2, AS AMENDED BY P.L.158-2013,
 25 SECTION 536, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2021]: Sec. 2. A person who, in exchange for
 27 the loan of any property, knowingly or intentionally receives or
 28 contracts to receive from another person any consideration at a rate
 29 greater than two (2) times the rate specified in ~~IC 24-4.5-3-508(2)(a)(i)~~,
 30 **IC 24-4.5-3-201(1)(b)** commits loansharking, a Level 6 felony.
 31 However, loansharking is a Level 5 felony if force or the threat of force
 32 is used to collect or to attempt to collect any of the property loaned or
 33 any of the consideration for the loan.

