

# HOUSE BILL No. 1411

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## 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.

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## **Ellington**

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

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Introduced

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

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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



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

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

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

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

24 (b) if the billing cycle is not monthly, the loan finance charge  
25 shall be deemed not to exceed the maximum annual percentage  
26 rate if the loan finance charge contracted for and received does  
27 not exceed a percentage which bears the same relation to  
28 one-twelfth (1/12) the maximum annual percentage rate as the  
29 number of days in the billing cycle bears to thirty (30); and  
30 (c) notwithstanding subsection (1), if there is an unpaid balance  
31 on the date as of which the loan finance charge is applied, the  
32 lender may contract for and receive a charge not exceeding fifty  
33 cents (\$0.50) if the billing cycle is monthly or longer, or the pro  
34 rata part of fifty cents (\$0.50) which bears the same relation to  
35 fifty cents (\$0.50) as the number of days in the billing cycle bears  
36 to thirty (30) if the billing cycle is shorter than monthly, but no  
37 charge may be made pursuant to this subdivision if the lender has  
38 made an annual charge for the same period as permitted by the  
39 provisions on additional charges in section 202(1)(c) of this  
40 chapter.

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



1 charge on all amounts financed within a specified range. A loan finance  
 2 charge does not violate subsection (1) if:  
 3       (a) when applied to the median amount within each range, it does  
 4        not exceed the maximum permitted by subsection (1); and  
 5       (b) when applied to the lowest amount within each range, it does  
 6        not produce a rate of loan finance charge exceeding the rate  
 7        calculated according to subdivision (a) by more than eight percent  
 8        (8%) of the rate calculated according to subdivision (a).  
 9       (7) With respect to a consumer loan not made pursuant to a  
 10      revolving loan account, the lender may contract for and receive a  
 11      minimum loan finance charge of not more than thirty dollars (\$30). The  
 12      minimum loan finance charge allowed under this subsection may be  
 13      imposed only if the lender does not contract for or receive a  
 14      nonrefundable prepaid finance charge under subsection (9) and:  
 15       (a) the debtor prepays in full a consumer loan, refinancing, or  
 16        consolidation, regardless of whether the loan, refinancing, or  
 17        consolidation is precomputed;  
 18       (b) the loan, refinancing, or consolidation prepaid by the debtor  
 19        is subject to a loan finance charge that:  
 20           (i) is contracted for by the parties; and  
 21           (ii) does not exceed the rate prescribed in subsection (1); and  
 22       (c) the loan finance charge earned at the time of prepayment is  
 23        less than the minimum loan finance charge contracted for under  
 24        this subsection.  
 25       (8) The amount of thirty dollars (\$30) in subsection (7) is subject to  
 26      change under the provisions on adjustment of dollar amounts (IC  
 27      24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the  
 28      Reference Base Index to be used under this subsection is the Index for  
 29      October 1992.  
 30       (9) Except as provided in subsection (7), and subject to subsection  
 31      (12), in addition to the loan finance charge authorized by subsection (1)  
 32      and to any other charges and fees permitted by this chapter, a lender  
 33      may contract for and receive a nonrefundable prepaid finance charge  
 34      of not more than the following:  
 35       (a) In the case of a consumer loan that is secured by an interest in  
 36        land and that:  
 37           (i) is not made under a revolving loan account, two percent  
 38           (2%) of the loan amount; or  
 39           (ii) is made under a revolving loan account, two percent (2%)  
 40           of the line of credit.  
 41       (b) In the case of consumer loan that is not secured by an interest  
 42        in land, fifty dollars (\$50) if the loan agreement is entered into



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

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

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

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

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

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

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

32 (a) must be in writing;  
 33 (b) shall be delivered to all parties in the transaction; and  
 34 (c) is subject to IC 4-21.5-3.

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

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

41 are subject to IC 35-45-7 and, when combined, may not exceed the rate  
 42 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:

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

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

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

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

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

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

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

37 SECTION 3. IC 24-4.5-3-508, AS AMENDED BY P.L.85-2020,  
38 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 2021]: Sec. 508. Loan Finance Charge for Supervised Loans  
40 – (1) This section applies only to a loan agreement (or to an  
41 agreement for the refinancing or consolidation of a loan) that is  
42 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  
     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  
     manner prescribed by the department; and
- 33 (b) is subject to the same licensure requirements and procedures  
     as an applicant for a license to make consumer loans (other than  
     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  
     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.

