

HOUSE BILL No. 1494

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5.

Synopsis: Prohibition on charging residual interest. Defines "residual interest", with respect to a credit card, as interest that: (1) accrues on the outstanding balance on a credit card account from the close of a particular billing cycle until the cardholder's payment on the account posts; and (2) may result in a cardholder owing interest even if the cardholder pays off the full amount shown as outstanding on the statement issued as of the close of the billing cycle. Prohibits a card issuer from doing the following: (1) Issuing, or offering to issue, a credit card to an Indiana consumer if, under the terms and conditions of use for the credit card, the card issuer is permitted to charge residual interest on outstanding balances. (2) Charging residual interest on the outstanding balance on a credit card account. Provides that a card issuer that violates these provisions commits a deceptive act that is: (1) actionable by the attorney general or by a consumer under the deceptive consumer sales act (act); and (2) subject to the remedies and penalties set forth in the act.

Effective: Upon passage.

Carbaugh

January 17, 2023, read first time and referred to Committee on Financial Institutions.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE BILL No. 1494

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 24-5-0.5-3, AS AMENDED BY P.L.34-2022,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 3. (a) A supplier may not commit an unfair,
4 abusive, or deceptive act, omission, or practice in connection with a
5 consumer transaction. Such an act, omission, or practice by a supplier
6 is a violation of this chapter whether it occurs before, during, or after
7 the transaction. An act, omission, or practice prohibited by this section
8 includes both implicit and explicit misrepresentations.

9 (b) Without limiting the scope of subsection (a), the following acts,
10 and the following representations as to the subject matter of a
11 consumer transaction, made orally, in writing, or by electronic
12 communication, by a supplier, are deceptive acts:

13 (1) That such subject of a consumer transaction has sponsorship,
14 approval, performance, characteristics, accessories, uses, or
15 benefits it does not have which the supplier knows or should
16 reasonably know it does not have.

17 (2) That such subject of a consumer transaction is of a particular



- 1 standard, quality, grade, style, or model, if it is not and if the
2 supplier knows or should reasonably know that it is not.
- 3 (3) That such subject of a consumer transaction is new or unused,
4 if it is not and if the supplier knows or should reasonably know
5 that it is not.
- 6 (4) That such subject of a consumer transaction will be supplied
7 to the public in greater quantity than the supplier intends or
8 reasonably expects.
- 9 (5) That replacement or repair constituting the subject of a
10 consumer transaction is needed, if it is not and if the supplier
11 knows or should reasonably know that it is not.
- 12 (6) That a specific price advantage exists as to such subject of a
13 consumer transaction, if it does not and if the supplier knows or
14 should reasonably know that it does not.
- 15 (7) That the supplier has a sponsorship, approval, or affiliation in
16 such consumer transaction the supplier does not have, and which
17 the supplier knows or should reasonably know that the supplier
18 does not have.
- 19 (8) That such consumer transaction involves or does not involve
20 a warranty, a disclaimer of warranties, or other rights, remedies,
21 or obligations, if the representation is false and if the supplier
22 knows or should reasonably know that the representation is false.
- 23 (9) That the consumer will receive a rebate, discount, or other
24 benefit as an inducement for entering into a sale or lease in return
25 for giving the supplier the names of prospective consumers or
26 otherwise helping the supplier to enter into other consumer
27 transactions, if earning the benefit, rebate, or discount is
28 contingent upon the occurrence of an event subsequent to the time
29 the consumer agrees to the purchase or lease.
- 30 (10) That the supplier is able to deliver or complete the subject of
31 the consumer transaction within a stated period of time, when the
32 supplier knows or should reasonably know the supplier could not.
33 If no time period has been stated by the supplier, there is a
34 presumption that the supplier has represented that the supplier
35 will deliver or complete the subject of the consumer transaction
36 within a reasonable time, according to the course of dealing or the
37 usage of the trade.
- 38 (11) That the consumer will be able to purchase the subject of the
39 consumer transaction as advertised by the supplier, if the supplier
40 does not intend to sell it.
- 41 (12) That the replacement or repair constituting the subject of a
42 consumer transaction can be made by the supplier for the estimate



- 1 the supplier gives a customer for the replacement or repair, if the
 2 specified work is completed and:
- 3 (A) the cost exceeds the estimate by an amount equal to or
 - 4 greater than ten percent (10%) of the estimate;
 - 5 (B) the supplier did not obtain written permission from the
 - 6 customer to authorize the supplier to complete the work even
 - 7 if the cost would exceed the amounts specified in clause (A);
 - 8 (C) the total cost for services and parts for a single transaction
 - 9 is more than seven hundred fifty dollars (\$750); and
 - 10 (D) the supplier knew or reasonably should have known that
 - 11 the cost would exceed the estimate in the amounts specified in
 - 12 clause (A).
- 13 (13) That the replacement or repair constituting the subject of a
 14 consumer transaction is needed, and that the supplier disposes of
 15 the part repaired or replaced earlier than seventy-two (72) hours
 16 after both:
- 17 (A) the customer has been notified that the work has been
 - 18 completed; and
 - 19 (B) the part repaired or replaced has been made available for
 - 20 examination upon the request of the customer.
- 21 (14) Engaging in the replacement or repair of the subject of a
 22 consumer transaction if the consumer has not authorized the
 23 replacement or repair, and if the supplier knows or should
 24 reasonably know that it is not authorized.
- 25 (15) The act of misrepresenting the geographic location of the
 26 supplier by listing an alternate business name or an assumed
 27 business name (as described in IC 23-0.5-3-4) in a local telephone
 28 directory if:
- 29 (A) the name misrepresents the supplier's geographic location;
 - 30 (B) the listing fails to identify the locality and state of the
 - 31 supplier's business;
 - 32 (C) calls to the local telephone number are routinely forwarded
 - 33 or otherwise transferred to a supplier's business location that
 - 34 is outside the calling area covered by the local telephone
 - 35 directory; and
 - 36 (D) the supplier's business location is located in a county that
 - 37 is not contiguous to a county in the calling area covered by the
 - 38 local telephone directory.
- 39 (16) The act of listing an alternate business name or assumed
 40 business name (as described in IC 23-0.5-3-4) in a directory
 41 assistance data base if:
- 42 (A) the name misrepresents the supplier's geographic location;



- 1 (B) calls to the local telephone number are routinely forwarded
2 or otherwise transferred to a supplier's business location that
3 is outside the local calling area; and
4 (C) the supplier's business location is located in a county that
5 is not contiguous to a county in the local calling area.
- 6 (17) The violation by a supplier of IC 24-3-4 concerning
7 cigarettes for import or export.
- 8 (18) The act of a supplier in knowingly selling or reselling a
9 product to a consumer if the product has been recalled, whether
10 by the order of a court or a regulatory body, or voluntarily by the
11 manufacturer, distributor, or retailer, unless the product has been
12 repaired or modified to correct the defect that was the subject of
13 the recall.
- 14 (19) The violation by a supplier of 47 U.S.C. 227, including any
15 rules or regulations issued under 47 U.S.C. 227.
- 16 (20) The violation by a supplier of the federal Fair Debt
17 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
18 rules or regulations issued under the federal Fair Debt Collection
19 Practices Act (15 U.S.C. 1692 et seq.).
- 20 (21) A violation of IC 24-5-7 (concerning health spa services), as
21 set forth in IC 24-5-7-17.
- 22 (22) A violation of IC 24-5-8 (concerning business opportunity
23 transactions), as set forth in IC 24-5-8-20.
- 24 (23) A violation of IC 24-5-10 (concerning home consumer
25 transactions), as set forth in IC 24-5-10-18.
- 26 (24) A violation of IC 24-5-11 (concerning real property
27 improvement contracts), as set forth in IC 24-5-11-14.
- 28 (25) A violation of IC 24-5-12 (concerning telephone
29 solicitations), as set forth in IC 24-5-12-23.
- 30 (26) A violation of IC 24-5-13.5 (concerning buyback motor
31 vehicles), as set forth in IC 24-5-13.5-14.
- 32 (27) A violation of IC 24-5-14 (concerning automatic
33 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 34 (28) A violation of IC 24-5-15 (concerning credit services
35 organizations), as set forth in IC 24-5-15-11.
- 36 (29) A violation of IC 24-5-16 (concerning unlawful motor
37 vehicle subleasing), as set forth in IC 24-5-16-18.
- 38 (30) A violation of IC 24-5-17 (concerning environmental
39 marketing claims), as set forth in IC 24-5-17-14.
- 40 (31) A violation of IC 24-5-19 (concerning deceptive commercial
41 solicitation), as set forth in IC 24-5-19-11.
- 42 (32) A violation of IC 24-5-21 (concerning prescription drug



- 1 discount cards), as set forth in IC 24-5-21-7.
- 2 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 3 appraisals), as set forth in IC 24-5-23.5-9.
- 4 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 5 forth in IC 24-5-26-3.
- 6 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 7 as set forth in IC 24-5.5-6-1.
- 8 (36) A violation of IC 24-8 (concerning promotional gifts and
- 9 contests), as set forth in IC 24-8-6-3.
- 10 (37) A violation of IC 21-18.5-6 (concerning representations
- 11 made by a postsecondary credit bearing proprietary educational
- 12 institution), as set forth in IC 21-18.5-6-22.5.
- 13 (38) A violation of IC 24-5-15.5 (concerning collection actions of
- 14 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 15 (39) A violation of IC 24-14 (concerning towing services), as set
- 16 forth in IC 24-14-10-1.
- 17 (40) A violation of IC 24-5-14.5 (concerning misleading or
- 18 inaccurate caller identification information), as set forth in
- 19 IC 24-5-14.5-12.
- 20 (41) A violation of IC 24-5-27 (concerning intrastate inmate
- 21 calling services), as set forth in IC 24-5-27-27.
- 22 **(42) A violation of 24-5-28-8 (concerning residual interest on**
- 23 **credit card account balances) as set forth in IC 24-5-28-9.**
- 24 (c) Any representations on or within a product or its packaging or
- 25 in advertising or promotional materials which would constitute a
- 26 deceptive act shall be the deceptive act both of the supplier who places
- 27 such representation thereon or therein, or who authored such materials,
- 28 and such other suppliers who shall state orally or in writing that such
- 29 representation is true if such other supplier shall know or have reason
- 30 to know that such representation was false.
- 31 (d) If a supplier shows by a preponderance of the evidence that an
- 32 act resulted from a bona fide error notwithstanding the maintenance of
- 33 procedures reasonably adopted to avoid the error, such act shall not be
- 34 deceptive within the meaning of this chapter.
- 35 (e) It shall be a defense to any action brought under this chapter that
- 36 the representation constituting an alleged deceptive act was one made
- 37 in good faith by the supplier without knowledge of its falsity and in
- 38 reliance upon the oral or written representations of the manufacturer,
- 39 the person from whom the supplier acquired the product, any testing
- 40 organization, or any other person provided that the source thereof is
- 41 disclosed to the consumer.
- 42 (f) For purposes of subsection (b)(12), a supplier that provides



1 estimates before performing repair or replacement work for a customer
 2 shall give the customer a written estimate itemizing as closely as
 3 possible the price for labor and parts necessary for the specific job
 4 before commencing the work.

5 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
 6 company or other provider of a telephone directory or directory
 7 assistance service or its officer or agent is immune from liability for
 8 publishing the listing of an alternate business name or assumed
 9 business name of a supplier in its directory or directory assistance data
 10 base unless the telephone company or other provider of a telephone
 11 directory or directory assistance service is the same person as the
 12 supplier who has committed the deceptive act.

13 (h) For purposes of subsection (b)(18), it is an affirmative defense
 14 to any action brought under this chapter that the product has been
 15 altered by a person other than the defendant to render the product
 16 completely incapable of serving its original purpose.

17 SECTION 2. IC 24-5-28 IS ADDED TO THE INDIANA CODE AS
 18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 19 PASSAGE]:

20 **Chapter 28. Credit Cards: Prohibition Against Charging**
 21 **Residual Interest**

22 **Sec. 1. As used in this chapter, "billing cycle", with respect to a**
 23 **credit card, means the interval between the days or dates of**
 24 **regular periodic statements.**

25 **Sec. 2. (a) As used in this chapter, "card issuer" means a person**
 26 **that issues a credit card.**

27 **(b) The term includes an agent of a person described in**
 28 **subsection (a) with respect to the credit card issued.**

29 **Sec. 3. As used in this chapter, "cardholder" means:**

30 **(1) a consumer to whom a credit card is issued for any**
 31 **purpose; or**

32 **(2) a person, other than the consumer, who has agreed with a**
 33 **card issuer to pay obligations arising from the issuance of a**
 34 **credit card to a consumer.**

35 **Sec. 4. As used in this chapter, "consumer" means:**

36 **(1) a natural person whose principal residence is in Indiana;**
 37 **or**

38 **(2) a person, other than a natural person, that is:**

39 **(A) domiciled; or**

40 **(B) in the case of a governmental unit, located;**

41 **in Indiana.**

42 **Sec. 5. As used in this chapter, "credit card" means any:**



1 (1) card;
 2 (2) plate; or
 3 (3) other single credit device;
 4 that may be used from time to time to obtain credit (as defined in
 5 12 CFR 1026.2(a)(14)).

6 Sec. 6. As used in this chapter, "person" means:

- 7 (1) a natural person; or
 8 (2) an organization, including a corporation, a partnership, a
 9 proprietorship, an association, a cooperative, an estate, a
 10 trust, or a governmental unit.

11 Sec. 7. (a) As used in this chapter, "residual interest" means
 12 interest that:

- 13 (1) accrues on the outstanding balance on a credit card
 14 account from the close of a particular billing cycle until the
 15 cardholder's payment on the account posts; and
 16 (2) may result in a cardholder owing interest even if the
 17 cardholder pays off the full amount shown as outstanding on
 18 the statement issued as of the close of the billing cycle.

19 (b) The term includes interest described in subsection (a)
 20 regardless of how or whether it is denominated or described by a
 21 card issuer:

- 22 (1) on a periodic billing statement;
 23 (2) in the credit card agreement; or
 24 (3) in the terms and conditions of use;

25 for a credit card.

26 Sec. 8. A card issuer may not do the following:

- 27 (1) Issue, or offer to issue, a credit card to a consumer if,
 28 under the terms and conditions of use applicable to the credit
 29 card, the card issuer is permitted to charge residual interest
 30 on outstanding balances on the credit card account, as
 31 described in section 7(a)(1) of this chapter.
 32 (2) Charge residual interest on the outstanding balance on a
 33 credit card account.

34 Sec. 9. A card issuer that violates section 8 of this chapter
 35 commits a deceptive act that is actionable by the attorney general
 36 or by a consumer under IC 24-5-0.5-4 and is subject to the
 37 remedies and penalties set forth in IC 24-5-0.5.

38 SECTION 3. An emergency is declared for this act.

