

SENATE BILL No. 245

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5.

Synopsis: Long term small loans. Provides that a lender that is licensed by the department of financial institutions to engage in small loans may enter into a transaction for a long term small loan with a borrower. Defines a long term small loan as a loan that: (1) is entered into by a licensed small loan lender and a borrower; (2) has a principal amount of at least \$605 and not more than \$2,500; and (3) is payable in installments over a term of not more than 24 months. Provides that with respect to a long term small loan, a lender may contract for and receive a monthly loan finance charge that: (1) does not exceed 20% of the principal; and (2) is earned by the lender on a daily basis using the simple interest method. Sets forth certain requirements and prohibitions with respect to long term small loans.

Effective: July 1, 2017.

Holdman

January 9, 2017, read first time and referred to Committee on Insurance and Financial Institutions.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 245

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

1 SECTION 1. IC 24-4.5-3-502, AS AMENDED BY P.L.153-2016,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 502. (1) A person that is a:
4 (a) depository institution;
5 (b) subsidiary that is owned and controlled by a depository
6 institution and regulated by a federal banking agency; or
7 (c) credit union service organization;
8 may engage in Indiana in the making of consumer loans (including
9 small loans **and long term small loans** that are subject to IC 24-4.5-7)
10 that are not mortgage transactions without obtaining a license under
11 this article.
12 (2) A collection agency licensed under IC 25-11-1 may engage in:
13 (a) taking assignments of consumer loans (including small loans
14 **and long term small loans** that are subject to IC 24-4.5-7) that
15 are not mortgage transactions; and
16 (b) undertaking the direct collection of payments from or the
17 enforcement of rights against debtors arising from consumer loans



1 (including small loans **and long term small loans** that are subject
 2 to IC 24-4.5-7) that are not mortgage transactions;
 3 in Indiana without obtaining a license under this article.

4 (3) A person that does not qualify under subsection (1) or (2) shall
 5 acquire and retain a license under this chapter in order to regularly
 6 engage in Indiana in the following actions with respect to consumer
 7 loans that are not small loans **or long term small loans** (as defined in
 8 ~~IC 24-4.5-7-104~~ **IC 24-4.5-7**) or mortgage transactions:

9 (a) The making of consumer loans.

10 (b) Taking assignments of consumer loans.

11 (c) Undertaking the direct collection of payments from or the
 12 enforcement of rights against debtors arising from consumer
 13 loans.

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

19 (5) Except as otherwise provided in subsections (1) and (2), a
 20 separate license under IC 24-4.5-7 is required in order to regularly
 21 engage in Indiana in the following actions with respect to small loans
 22 **or long term small loans** (as defined in ~~IC 24-4.5-7-104~~):
 23 **IC 24-4.5-7**):

24 (a) The making of small loans **or long term small loans** (as
 25 defined in ~~IC 24-4.5-7-104~~; **IC 24-4.5-7**).

26 (b) Taking assignments of small loans **or long term small loans**
 27 (as defined in ~~IC 24-4.5-7-104~~; **IC 24-4.5-7**).

28 (c) Undertaking the direct collection of payments from or the
 29 enforcement of rights against debtors arising from small loans **or**
 30 **long term small loans** (as defined in ~~IC 24-4.5-7-104~~):
 31 **IC 24-4.5-7**).

32 A person that seeks licensure under IC 24-4.5-7 in order to regularly
 33 engage in Indiana in the actions set forth in this subsection shall apply
 34 to the department for that license in the form and manner prescribed by
 35 the department, and is subject to the same licensure requirements and
 36 procedures as an applicant for a license to make consumer loans (other
 37 than small loans, **long term small loans**, or mortgage transactions)
 38 under this section.

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

40 SECTION 2. IC 24-4.5-7-102, AS AMENDED BY P.L.186-2015,
 41 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2017]: Sec. 102. (1) Except as otherwise provided, all



1 provisions of this article applying to consumer loans, including
 2 IC 24-4.5-3-502.2, apply to small loans **and long term small loans,**
 3 **both** as defined in this chapter.

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

- 7 (a) The making of small loans **or long term small loans.**
- 8 (b) Taking assignments of small loans **or long term small loans.**
- 9 (c) Undertaking the direct collection of payments from or the
 10 enforcement of rights against debtors arising from small loans **or**
 11 **long term small loans.**

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

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

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

- 22 (a) small loans **or long term small loans** under this chapter; and
- 23 (b) consumer loans (other than mortgage transactions) that are not
 24 small loans **or long term small loans;**

25 must obtain ~~a separate license~~ **licenses** from the department for ~~each~~
 26 ~~type of loan;~~ **the loans described in subdivision (a) and for the loans**
 27 **described in subdivision (b),** as described in IC 24-4.5-3-502(5). **A**
 28 **person is not required to obtain separate licenses under this**
 29 **chapter with respect to small loans and long term small loans. A**
 30 **person who is issued and maintains in good standing a license**
 31 **under this chapter to engage in any of the activities described in**
 32 **this subsection with respect to small loans is also authorized to**
 33 **engage in those activities with respect to long term small loans,**
 34 **regardless of when the license is issued, including a license issued**
 35 **under this chapter before July 1, 2017.**

36 (5) This chapter applies to:

- 37 (a) a lender or to any person who facilitates, enables, or acts as a
 38 conduit for any person who is or may be exempt from licensing
 39 under IC 24-4.5-3-502;
- 40 (b) a bank, savings association, credit union, or other state or
 41 federally regulated financial institution except those that are
 42 specifically exempt regarding limitations on interest rates and



- 1 fees; or
- 2 (c) a person, if the department determines that a transaction is:
- 3 (i) in substance a disguised loan; or
- 4 (ii) the application of subterfuge for the purpose of avoiding
- 5 this chapter.
- 6 (6) A loan that:
- 7 (a) does not qualify as a small loan under section 104 of this
- 8 chapter **or a long term small loan under section 104.2 of this**
- 9 **chapter;**
- 10 (b) is for a term shorter than that specified in:
- 11 (i) section 401(1) of this chapter, **in the case of a small loan;**
- 12 or
- 13 (ii) **section 401.2 of this chapter, in the case of a long term**
- 14 **small loan; or**
- 15 (c) is made in violation of section 201, **201.2**, 401, **401.2**, 402,
- 16 404, or 410 of this chapter, **as applicable;**

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

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

- 24 (a) performed any of the activities described in subsection (2)
- 25 with respect to a small loan **or long term small loan** at least one
- 26 (1) time in the preceding calendar year; or
- 27 (b) performs or will perform any of the activities described in
- 28 subsection (2) with respect to a small loan **or long term small**
- 29 **loan** at least one (1) time in the current calendar year if the person
- 30 did not perform any of the activities described in subsection (2)
- 31 with respect to a small loan **or long term small loan** at least one
- 32 (1) time in the preceding calendar year.

33 SECTION 3. IC 24-4.5-7-103, AS AMENDED BY P.L.57-2006,
 34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2017]: Sec. 103. The following definitions apply to this
 36 chapter:

37 "Small loan"	Section 7-104
38 "Long term small loan"	Section 7-104.2
39 "Principal"	Section 7-105
40 "Check"	Section 7-106
41 "Renewal"	Section 7-107
42 "Consecutive small loan"	Section 7-108



1	"Paid in full"	Section 7-109
2	"Monthly gross income"	Section 7-110
3	"Lender"	Section 7-111

4 SECTION 4. IC 24-4.5-7-104.2 IS ADDED TO THE INDIANA
5 CODE AS A NEW SECTION TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2017]: **Sec. 104.2. (1) "Long term small loan"**
7 **means a loan:**

8 **(a) that is entered into by:**

9 **(i) a lender that acquires and retains a license issued by the**
10 **department under this chapter; and**

11 **(ii) a borrower;**

12 **(b) that has a principal loan amount that is at least six**
13 **hundred five dollars (\$605) and not more than two thousand**
14 **five hundred dollars (\$2,500);**

15 **(c) that is payable in installments over a term of not more**
16 **than twenty-four (24) months; and**

17 **(d) in which the lender may obtain the borrower's written**
18 **authorization to debit the borrower's account (whether for**
19 **scheduled automatic payments or, subject to section 406 of**
20 **this chapter, as a result of default) under an agreement**
21 **between the borrower and lender and in compliance with the**
22 **requirements of Regulation E (12 CFR 1005.1 et seq.).**

23 **(2) The amounts of six hundred five dollars (\$605) and two**
24 **thousand five hundred dollars (\$2,500) in subsection (1)(b) are**
25 **subject to change under the provisions on adjustment of dollar**
26 **amounts (IC 24-4.5-1-106). However, notwithstanding**
27 **IC 24-4.5-1-106(1), the Reference Base Index to be used under this**
28 **subsection with respect to the amount of six hundred five dollars**
29 **(\$605) is the Index for October 2006, and the Reference base Index**
30 **to be used under this subsection with respect to the amount of two**
31 **thousand five hundred dollars (\$2,500) is the Index for October**
32 **2017.**

33 SECTION 5. IC 24-4.5-7-107 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 107. (1) "Renewal",**
35 **refers to a small loan that takes the place of with respect to an existing**
36 **small loan, by: means (a) renewing, (b) repaying, (c) refinancing, or (d)**
37 **consolidating a the existing small loan with the proceeds of another**
38 **small loan, or with the proceeds of a long term small loan, made to**
39 **the same borrower by a lender.**

40 **(2) "Renewal", with respect to an existing long term small loan,**
41 **means renewing, repaying, refinancing, or consolidating the**
42 **existing long term small loan with the proceeds of:**



1 **(a) another long term small loan; or**
 2 **(b) a small loan;**
 3 **made to the same borrower by a lender.**

4 SECTION 6. IC 24-4.5-7-109, AS AMENDED BY P.L.57-2006,
 5 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2017]: Sec. 109. "Paid in full" means the termination of:

7 **(a)** a small loan through:

8 ~~(i)~~ **(i)** the presentment of the borrower's check for payment by
 9 the drawee bank or the exercise by the lender of an
 10 authorization to debit an account of the borrower; or

11 ~~(ii)~~ **(ii)** the return of a check to a borrower who redeems it for
 12 consideration; or

13 **(b) a long term small loan through the payment in full of the**
 14 **balance of the long term small loan by the borrower.**

15 SECTION 7. IC 24-4.5-7-110 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 110. **(a)** "Monthly gross
 17 income" means the income received by the borrower in the thirty (30)
 18 day period preceding the borrower's application for a small loan under
 19 this chapter and exclusive of any income other than regular gross pay
 20 received, or as otherwise determined by the department.

21 **(b) As used in IC 24-4.5-7-402, "monthly gross income", with**
 22 **respect to a borrower in a long term small loan, means one-twelfth**
 23 **(1/12) of the borrower's annual gross income.**

24 SECTION 8. IC 24-4.5-7-110.2 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2017]: Sec. 110.2. **"Annual gross income",**
 27 **with respect to a borrower in a long term small loan, means the**
 28 **income received by the borrower in the twelve (12) month period**
 29 **preceding the borrower's application for the long term small loan,**
 30 **exclusive of any income other than regular gross pay received, or**
 31 **as otherwise determined by the department.**

32 SECTION 9. IC 24-4.5-7-111, AS AMENDED BY P.L.186-2015,
 33 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2017]: Sec. 111. "Lender" means a person that acquires and
 35 retains a license issued by the department of financial institutions under
 36 this chapter to engage in small loans **and long term small loans.**

37 SECTION 10. IC 24-4.5-7-113 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2017]: Sec. 113. **"Month" means a period**
 40 **extending from a given date in one (1) calendar month to:**

41 **(a) the same date in the succeeding calendar month; or**

42 **(b) if there is no same date in the succeeding calendar month,**



1 **the last day of the succeeding calendar month.**
 2 SECTION 11. IC 24-4.5-7-201.2 IS ADDED TO THE INDIANA
 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 4 [EFFECTIVE JULY 1, 2017]: **Sec. 201.2. (1) For purposes of this**
 5 **section, all of the following apply:**

6 **(a) The term of a loan commences on the date on which the**
 7 **loan is made.**

8 **(b) Differences in lengths of months are disregarded, and each**
 9 **day is counted as one-thirtieth (1/30) of a month.**

10 **(2) With respect to a long term small loan, a lender may**
 11 **contract for a monthly loan finance charge that:**

12 **(a) does not exceed twenty percent (20%) of the principal; and**

13 **(b) is earned by the lender on a daily basis using the simple**
 14 **interest method.**

15 SECTION 12. IC 24-4.5-7-202, AS AMENDED BY P.L.60-2016,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2017]: **Sec. 202. (1) Except as provided in section 202.2 of**
 18 **this chapter with respect to a long term small loan, and**
 19 notwithstanding any other law, the only fee that may be contracted for
 20 and received by the lender or an assignee on a small loan **or a long**
 21 **term small loan** is a charge, not to exceed twenty-five dollars (\$25),
 22 for each:

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

25 (i) check;

26 (ii) negotiable order of withdrawal; or

27 (iii) share draft;

28 issued by the borrower; or

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

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

34 (2) A lender may:

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

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

38 not more than three (3) times.

39 SECTION 13. IC 24-4.5-7-202.2 IS ADDED TO THE INDIANA
 40 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2017]: **Sec. 202.2. (1) With respect to a long**
 42 **term small loan, the lender and the borrower may contract for a**



1 delinquency charge of not more than eighteen dollars and fifty
 2 cents (\$18.50) on any installment or minimum payment that is due
 3 and not paid in full within ten (10) days after its scheduled due
 4 date.

5 (2) A delinquency charge under this section may be collected
 6 only once on an installment however long it remains delinquent. A
 7 delinquency charge may be collected any time after it accrues.

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

12 (a) an earlier installment; or

13 (b) payment due;

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

17 (4) If provided for by the contract between the lender and the
 18 borrower, the amount of eighteen dollars and fifty cents (\$18.50)
 19 in subsection (1) is subject to change under IC 24-4.5-1-106.
 20 However, notwithstanding IC 24-4.5-1-106(1), the Reference Base
 21 Index to be used under this subsection is the Index for October
 22 2015.

23 (5) If the parties provide by contract for a delinquency charge
 24 that is subject to change, the lender shall disclose in the contract
 25 that:

26 (a) the amount of the delinquency charge is subject to change
 27 as allowed by IC 24-4.5-1-106; and

28 (b) the Reference Base Index to be used for adjustments is the
 29 Index for October 2015.

30 SECTION 14. IC 24-4.5-7-301, AS AMENDED BY P.L.35-2010,
 31 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2017]: Sec. 301. (1) For purposes of this section, the lender
 33 shall disclose to the borrower to whom credit is extended with respect
 34 to a small loan **or a long term small loan** the information required by
 35 the Federal Consumer Credit Protection Act.

36 (2) **With respect to small loans**, in addition to the requirements of
 37 subsection (1), the lender must conspicuously display in bold type a
 38 notice to the public both in the lending area of each business location
 39 and in the loan documents the following statement:

40 "WARNING: A small loan is not intended to meet long term
 41 financial needs. A small loan should be used only to meet short
 42 term cash needs. The cost of your small loan may be higher than



1 loans offered by other lending institutions. Small loans are
 2 regulated by the State of Indiana Department of Financial
 3 Institutions.

4 A borrower may rescind a small loan without cost by paying the
 5 cash amount of the principal of the small loan to the lender not
 6 later than the end of the business day immediately following the
 7 day on which the small loan was made."

8 **(3) With respect to long term small loans, in addition to the**
 9 **requirements of subsection (1), the lender shall conspicuously**
 10 **display in bold type a notice to the public both in the lending area**
 11 **of each business location and in the loan documents the following**
 12 **statement:**

13 **"WARNING: The cost of your long term small loan may be**
 14 **higher than loans offered by other lending institutions. Long**
 15 **term small loans are regulated by the State of Indiana**
 16 **Department of Financial Institutions.**

17 **A borrower may rescind a long term small loan without cost**
 18 **by paying the cash amount of the principal of the long term**
 19 **small loan to the lender not later than the end of the business**
 20 **day immediately following the day on which the long term**
 21 **small loan was made."**

22 ~~(3)~~ **(4) The statement required in under subsection (2) or (3) must**
 23 **be in:**

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

27 ~~(4)~~ **(5) When a borrower enters into a small loan or a long term**
 28 **small loan, the lender shall provide the borrower with a pamphlet**
 29 **approved by the department that describes:**

- 30 (a) the availability of debt management and credit counseling
 31 services; and
- 32 (b) the borrower's rights and responsibilities in the transaction.

33 SECTION 15. IC 24-4.5-7-401.2 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2017]: **Sec. 401.2. (1) Subject to subsection**
 36 **(2), a long term small loan must be made for a term of not more**
 37 **than twenty-four (24) months.**

38 **(2) At any time before, during, or after the original maturity**
 39 **date of a long term small loan, a lender may, at the lender's**
 40 **discretion, permit the borrower to pay off the long term small loan**
 41 **after the original maturity date of the long term small loan by**
 42 **offering the borrower another payment arrangement agreed to by**



1 the lender and the borrower. However, a lender may not assess any
 2 fee, charge, penalty, or interest on a borrower in connection with
 3 another payment arrangement offered under this subsection.

4 (3) A lender may not make another long term small loan to a
 5 borrower within the one (1) day period immediately following the
 6 borrower's payment in full of a long term small loan that was made
 7 to the borrower by:

8 (a) the lender; or

9 (b) any other lender.

10 (4) After two (2) consecutive long term small loans, a lender
 11 may not make another small loan or long term small loan to a
 12 borrower within a seven (7) day period immediately following the
 13 borrower's payment in full of a long term small loan that was made
 14 to the borrower by:

15 (a) the lender; or

16 (b) any other lender.

17 SECTION 16. IC 24-4.5-7-402, AS AMENDED BY P.L.27-2012,
 18 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2017]: Sec. 402. (1) A lender is prohibited from making:

20 (a) a small loan to a borrower if the total of:

21 (a) (i) the principal amount and finance charges of the small
 22 loan to be issued; plus

23 (b) (ii) any other small loan balances that the borrower has
 24 outstanding with any lender;

25 exceeds twenty percent (20%) of the borrower's monthly gross
 26 income; and

27 (b) a long term small loan to a borrower if the total of the
 28 scheduled payment due in one (1) month exceeds twenty
 29 percent (20%) of the borrower's monthly gross income.

30 For purposes of determining a borrower's monthly gross income
 31 under this subsection, a lender shall obtain and maintain, and may
 32 rely upon, third party verification of all income considered,
 33 including the borrower's consumer report (as defined in 15 U.S.C.
 34 1681A(d)). Third party verification is subject to review and
 35 approval of the director. The department may adopt rules under
 36 IC 4-22-2 to establish standards for the use of credit bureau
 37 reports under this subsection.

38 (2) A small loan may be secured by only one (1) check or
 39 authorization to debit the borrower's account per small loan. The check
 40 or electronic debit may not exceed the amount advanced to or on behalf
 41 of the borrower plus loan finance charges contracted for and permitted.

42 (3) A borrower may do the following:



1 (a) Make partial payments in any amount on ~~the~~ a small loan or
 2 a long term small loan without charge at any time before the due
 3 date of the small loan or long term small loan.

4 (b) Prepay in full the unpaid balance of a small loan or a long
 5 term small loan at any time without additional interest or
 6 penalty.

7 (4) After any payment is made on a small loan or a long term small
 8 loan whether the payment is made in part or in full before, on, or after
 9 the due date of the small loan or long term small loan, as applicable,
 10 the lender shall give a signed and dated receipt to the borrower making
 11 a payment showing the amount paid and the balance due on the small
 12 loan or long term small loan.

13 (5) The lender shall provide to each borrower a copy of the required
 14 small loan or long term small loan documents before the
 15 disbursement of the loan proceeds.

16 (6) A borrower may rescind a small loan or a long term small loan
 17 without cost by paying the cash amount of the principal of the small
 18 loan or long term small loan, as applicable, to the lender not later
 19 than the end of the business day immediately following the day on
 20 which the small loan or long term small loan was made.

21 (7) A lender shall not enter into a renewal of an existing small loan
 22 with a borrower. If a small loan is paid in full, a subsequent small loan
 23 or long term small loan is not a renewal.

24 (8) The following apply with respect to a long term small loan
 25 only:

26 (a) A lender shall not enter into a renewal of an existing long
 27 term small loan with a borrower. If a long term small loan is
 28 paid in full, a subsequent long term small loan is not a
 29 renewal.

30 (b) All payments on a long term small loan are due in
 31 substantially equal and consecutive installments, subject to
 32 any differentiations that the lender may reasonably establish
 33 with respect to the first payment due.

34 (c) Payments on a long term small loan may be made with
 35 cash or other immediately available funds or, with the
 36 borrower's voluntary authorization, through an electronic
 37 debit of a deposit account of the borrower.

38 SECTION 17. IC 24-4.5-7-403 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 403. A long term
 40 small loan may not be secured by personal property. A small loan
 41 may not be secured by personal property other than a check or
 42 electronic debit.



1 SECTION 18. IC 24-4.5-7-404, AS AMENDED BY P.L.35-2010,
 2 SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 404. (1) As used in this section, "commercially
 4 reasonable method of verification" means a private consumer credit
 5 reporting service that the department determines to be capable of
 6 providing a lender with adequate verification information necessary to
 7 ensure compliance with subsection (4).

8 (2) With respect to a small loan ~~no~~ **or a long term small loan, an**
 9 **individual** lender may **not** permit a person to become obligated under
 10 more than one (1) loan agreement **under this chapter** with the lender
 11 at any time.

12 (3) A lender shall not make a small loan that, when combined with
 13 the outstanding balance on another outstanding small loan owed to
 14 another lender, exceeds a total of ~~five six hundred fifty five~~ **five** dollars
 15 ~~(\$550); (\$605)~~, excluding finance charges. **A lender shall not make**
 16 **a long term small loan that, when combined with the outstanding**
 17 **balance on another outstanding long term small loan owed to**
 18 **another lender, exceeds a total of two thousand five hundred**
 19 **dollars (\$2,500), excluding finance charges.** A lender shall not make
 20 a ~~small~~ loan **under this chapter (whether the loan is a small loan or**
 21 **a long term small loan)** to a borrower who has two (2) or more ~~small~~
 22 loans **under this chapter** outstanding, regardless of the total value of
 23 the ~~small~~ loans. The ~~amount~~ **amounts** of ~~five six hundred fifty five~~
 24 dollars ~~(\$550) (\$605)~~ **and two thousand five hundred dollars**
 25 **(\$2,500)** in this subsection ~~is~~ **are** subject to change under the
 26 provisions on adjustment of dollar amounts (IC 24-4.5-1-106).
 27 However, notwithstanding IC 24-4.5-1-106(1), the Reference Base
 28 Index to be used under this subsection **with respect to the amount of**
 29 **six hundred five dollars (\$605)** is the Index for October 2006, **and the**
 30 **Reference Base Index to be used under this subsection with respect**
 31 **to the amount of two thousand five hundred dollars (\$2,500) is the**
 32 **Index for October 2015.**

33 (4) A lender complies with subsection (3) if the lender
 34 independently verifies the total number of outstanding ~~small~~ loans
 35 **under this chapter** and the total outstanding balance of those ~~small~~
 36 loans for a customer through a commercially reasonable method of
 37 verification. A lender's method of verifying whether a borrower has any
 38 outstanding ~~small~~ loans **under this chapter** and the total outstanding
 39 balance of any loans will be considered commercially reasonable if the
 40 method includes a manual investigation or an electronic query of:

41 (a) the lender's own records, including both records maintained at
 42 the location where the borrower is applying for the transaction



1 and records maintained at other locations within the state that are
2 owned and operated by the lender; and

3 (b) an available third party data base provided by a private
4 consumer reporting service, subject to the identification
5 verification requirements set forth in subsection (12).

6 (5) The department shall monitor the effectiveness of private
7 consumer credit reporting services in providing the verification
8 information required under subsection (4). If the department
9 determines that a commercially reasonable method of verification is
10 available, the department shall:

11 (a) provide reasonable notice to all lenders identifying the
12 commercially reasonable method of verification that is available;
13 and

14 (b) require each lender to use, consistent with the policies of the
15 department, the identified commercially reasonable method of
16 verification as a means of complying with subsection (4).

17 (6) If a borrower presents evidence to a lender that a loan has been
18 discharged in bankruptcy, the lender shall cause the record of the
19 borrower's loan to be updated in the data base described in subsection
20 (4)(b) to reflect the bankruptcy discharge.

21 (7) A lender shall cause the record of a borrower's loan to be
22 updated in the data base described in subsection (4)(b) to reflect:

23 (a) ~~the~~ presentment of the borrower's check for payment or ~~(b)~~ the
24 exercise of the borrower's authorization to debit the borrower's
25 account, **in the case of a small loan; or**

26 **(b) a payment in accordance with one (1) of the methods set**
27 **forth in section 402(8)(c) of this chapter, in the case of a long**
28 **term small loan.**

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

32 (8) A lender shall update information in a data base described in
33 subsection (4)(b) to reflect partial payments made on an outstanding
34 loan, the record of which is maintained in the data base.

35 (9) If a lender ceases doing business in Indiana, the director may
36 require the operator of the data base described in subsection (4)(b) to
37 remove records of the lender's loans from the operator's data base.

38 (10) The director may impose a civil penalty not to exceed one
39 hundred dollars (\$100) for each violation of:

40 (a) this section; or

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



1 (11) The excess amount of loan finance charge provided for in
 2 agreements in violation of this section is an excess charge for purposes
 3 of the provisions concerning effect of violations on rights of parties (IC
 4 24-4.5-5-202) and the provisions concerning civil actions by the
 5 department (IC 24-4.5-6-113).

6 (12) If a borrower provides the borrower's Social Security number
 7 to a lender in connection with any transaction or proposed transaction
 8 under this chapter, the lender shall:

9 (a) maintain procedures to verify that the Social Security number
 10 provided is legitimate and belongs to the borrower; and

11 (b) retain copies of any documents used to verify the borrower's
 12 Social Security number. Documentation under this subdivision
 13 may be in electronic form, and the numbers may be truncated.

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

18 **(13) The department shall, not later than November 1 of each**
 19 **year, report to the legislative council in an electronic format under**
 20 **IC 5-14-6 information concerning the following:**

21 **(a) The operation of a data base described in subsection (4)(b).**

22 **(b) Whether, considering any changes in federal law after**
 23 **July 1, 2017, the department considers use of a data base**
 24 **described in subsection (4)(b) necessary.**

25 **(14) If the department determines that information reported**
 26 **under this section by a lender to a data base described in**
 27 **subsection (4)(b) duplicates information reported to a nationally**
 28 **recognized consumer credit reporting agency under federal law,**
 29 **the department:**

30 **(a) may allow the lender to cease reporting the duplicative**
 31 **information to the data base described in subsection (4)(b);**
 32 **and**

33 **(b) shall include the department's action under subdivision (a)**
 34 **in the report required by subsection (13).**

35 SECTION 19. IC 24-4.5-7-405 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 405. (1) This section
 37 does not apply to a business that is licensed by the department for a
 38 purpose other than consumer loans.

39 (2) A lender shall not conduct the business of making small loans
 40 **or long term small loans** under this chapter within an office, suite,
 41 room, or place of business where another business is solicited or
 42 engaged unless the lender obtains a written opinion from the director



1 of the department that the other business would not be contrary to the
2 best interests of consumers.

3 SECTION 20. IC 24-4.5-7-406, AS AMENDED BY P.L.60-2016,
4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2017]: Sec. 406. (1) An agreement with respect to a small loan
6 **or a long term small loan** may not provide for charges as a result of
7 default by the borrower other than those specifically authorized by this
8 chapter. A provision in a small loan agreement **or a long term small**
9 **loan agreement** in violation of this section is unenforceable.

10 (2) A lender or an assignee of a small loan **or a long term small**
11 **loan** may seek only the following remedies upon default by a borrower:

12 (a) Recovery of:

13 (i) the contracted principal amount ~~of the loan~~; and

14 ~~(ii) the loan finance charge, in the case of a small loan; or~~

15 **(ii) the contracted and outstanding principal amount and**
16 **any accrued and unpaid loan finance charge, in the case of**
17 **a long term small loan.**

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

20 (i) a returned check, negotiable order of withdrawal, or share
21 draft; or

22 (ii) a dishonored authorization to debit the borrower's account;
23 because of insufficient funds in the borrower's account.

24 (c) Collection of postjudgment interest, if awarded by a court.

25 (d) Collection of court costs, if awarded by a court.

26 (3) A lender or an assignee of a small loan **or a long term small**
27 **loan** may not seek any of the following damages or remedies upon
28 default by a borrower:

29 (a) Payment of the lender's attorney's fees.

30 (b) Treble damages.

31 (c) Prejudgment interest.

32 (d) Damages allowed for dishonored checks under any statute
33 other than this chapter.

34 (e) Any damages or remedies **that are** not set forth in subsection
35 **(2) or that are not otherwise permitted under this chapter.**

36 (4) A contractual agreement in a small loan transaction **or a long**
37 **term small loan transaction** must include a notice of the following in
38 14 point bold type:

39 (a) The remedies available to a lender or an assignee under
40 subsection (2).

41 (b) The remedies and damages that a lender or an assignee is
42 prohibited **under subsection (3)** from seeking in a small loan



1 transaction ~~under subsection (3):~~ **or a long term small loan**
 2 **transaction, as applicable.**

3 SECTION 21. IC 24-4.5-7-409, AS AMENDED BY P.L.90-2008,
 4 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2017]: Sec. 409. (1) This section applies to licensees and
 6 unlicensed persons.

7 (2) A person who violates this chapter:

- 8 (a) is subject to the remedies provided in IC 24-4.5-5-202;
 9 (b) commits a deceptive act under IC 24-5-0.5 and is subject to
 10 the penalties listed in IC 24-5-0.5;
 11 (c) has no right to collect, receive, or retain any principal, interest,
 12 or other charges from a small loan **or a long term small loan;**
 13 however, this subdivision does not apply if the violation is the
 14 result of an accident or bona fide error of computation; and
 15 (d) is liable to the borrower for actual damages, statutory damages
 16 of two thousand dollars (\$2,000) per violation, costs, and
 17 attorney's fees; however, this subdivision does not apply if the
 18 violation is the result of an accident or bona fide error of
 19 computation.

20 The remedies described in this subsection are in addition to all other
 21 remedies set forth in this article.

22 (3) The department may sue:

- 23 (a) to enjoin any conduct that constitutes or will constitute a
 24 violation of this chapter; and
 25 (b) for other equitable relief.

26 (4) The remedies provided in this section are cumulative but are not
 27 intended to be the exclusive remedies available to a borrower. A
 28 borrower is not required to exhaust any administrative remedies under
 29 this section or any other applicable law.

30 SECTION 22. IC 24-4.5-7-410, AS AMENDED BY P.L.90-2008,
 31 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2017]: Sec. 410. A lender making small loans **or long term**
 33 **small loans,** or an assignee of a small loan **or of a long term small**
 34 **loan,** shall not commit ~~nor~~ **or** cause to be committed any of the
 35 following acts:

- 36 (a) Threatening to use or using the criminal process in any state
 37 to collect on a small loan **or on a long term small loan.**
 38 (b) Threatening to take action against a borrower that is
 39 prohibited by this chapter.
 40 (c) Making a misleading or deceptive statement regarding a small
 41 loan **or a long term small loan or concerning** a consequence of
 42 taking a small loan **or a long term small loan.**



- 1 (d) Contracting for or collecting attorney's fees on small loans **or**
 2 **long term small loans** made under this chapter.
- 3 (e) Altering the date or any other information on a check or an
 4 authorization to debit the borrower's account held as security, **in**
 5 **the case of a small loan.**
- 6 (f) Using a device or agreement that the department determines
 7 would have the effect of charging or collecting more fees,
 8 charges, or interest than allowed by this chapter, including, but
 9 not limited to:
- 10 (i) entering a different type of transaction with the borrower;
 11 (ii) entering into a sales/leaseback arrangement;
 12 (iii) catalog sales;
 13 (iv) entering into transactions in which a customer receives a
 14 purported cash rebate that is advanced by someone offering
 15 Internet content services, or some other product or service,
 16 when the cash rebate does not represent a discount or an
 17 adjustment of the purchase price for the product or service; or
 18 (v) entering any other transaction with the borrower that is
 19 designed to evade the applicability of this chapter.
- 20 (g) Engaging in unfair, deceptive, or fraudulent practices in the
 21 making or collecting of a small loan **or a long term small loan.**
- 22 (h) Charging to cash a check representing the proceeds of a small
 23 loan.
- 24 (i) Except as otherwise provided in this chapter:
- 25 (i) accepting the proceeds of a ~~new small~~ loan **under this**
 26 **chapter** as payment of an existing ~~small~~ loan **under this**
 27 **chapter** provided by the same lender; or
 28 (ii) renewing, refinancing, or consolidating a ~~small~~ loan **under**
 29 **this chapter** with the proceeds of another ~~small~~ loan **under**
 30 **this chapter** made by the same lender.
- 31 (j) Including any of the following provisions in a loan document:
- 32 (i) A hold harmless clause.
 33 (ii) A confession of judgment clause.
 34 (iii) A mandatory arbitration clause, unless the terms and
 35 conditions of the arbitration have been approved by the
 36 director of the department.
 37 (iv) An assignment of or order for payment of wages or other
 38 compensation for services.
 39 (v) A provision in which the borrower agrees not to assert a
 40 claim or defense arising out of contract.
 41 (vi) A waiver of any provision of this chapter.
- 42 (k) Selling insurance of any kind in connection with the making



1 or collecting of a small loan.

2 (1) **Except as otherwise provided in this chapter**, entering into
3 a renewal with a borrower.

4 SECTION 23. IC 24-4.5-7-413, AS AMENDED BY P.L.216-2013,
5 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2017]: Sec. 413. (1) A person engaged in making **small** loans
7 under this chapter (**including small loans or long term small loans,**
8 **or both**) shall post a bond to the department in the amount of fifty
9 thousand dollars (\$50,000) for each location where **small** loans **under**
10 **this chapter** will be made, up to a maximum bond in an amount
11 determined by the director.

12 (2) A surety bond issued under this section must:

13 (a) provide coverage for a lender engaged in making **small** loans
14 under this chapter in an amount as prescribed in subsection (1);

15 (b) be in a form prescribed by the director;

16 (c) be in effect during the term of the lender's license under this
17 chapter;

18 (d) remain in effect during the two (2) years after the lender
19 ceases offering financial services to individuals in Indiana;

20 (e) be payable to the department for the benefit of:

21 (i) the state; and

22 (ii) individuals who reside in Indiana when they agree to
23 receive financial services from the lender;

24 (f) be issued by a bonding, surety, or insurance company
25 authorized to do business in Indiana and rated at least "A-" by at
26 least one (1) nationally recognized investment rating service; and

27 (g) have payment conditioned upon the lender's or any of the
28 lender's employees' or agents' noncompliance with or violation of
29 this article or other applicable federal or state laws or regulations.

30 (3) The director may adopt rules or guidance documents with
31 respect to the requirements for a surety bond as necessary to
32 accomplish the purposes of this chapter.

33 (4) If the principal amount of a surety bond required under this
34 section is reduced by payment of a claim or judgment, the lender for
35 whom the bond is issued shall immediately notify the director of the
36 reduction and, not later than thirty (30) days after notice by the
37 director, file a new or an additional surety bond in an amount set by the
38 director. The amount of the new or additional bond set by the director
39 must be at least the amount of the bond before payment of the claim or
40 judgment.

41 (5) If for any reason a surety terminates a bond issued under this
42 section, the lender shall immediately notify the department and file a



1 new surety bond in an amount as prescribed in subsection (1).
2 (6) Cancellation of a surety bond issued under this section does not
3 affect any liability incurred or accrued during the period when the
4 surety bond was in effect.
5 (7) The director may obtain satisfaction from a surety bond issued
6 under this section if the director incurs expenses, issues a final order,
7 or recovers a final judgment under this chapter.
8 (8) Notices required under this section must be in writing and
9 delivered by certified mail, return receipt requested and postage
10 prepaid, or by overnight delivery using a nationally recognized carrier.

