

# SENATE BILL No. 614

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.5; IC 26-1-9.1-625.

**Synopsis:** Financial services. Makes the following change to the Uniform Consumer Credit Code (UCCC): (1) Amends the provisions authorizing specified additional charges for consumer credit sales and consumer loans to: (A) permit a seller or a lender, as applicable, to contract for and receive a charge not to exceed \$10 for procuring a credit report; and (B) in the case of a revolving loan account, permit a lender to contract for and receive a transaction fee that may not exceed the greater of: (i) 2% of the amount of the transaction; or (ii) \$10. (Current law authorizes the lender to charge a transaction fee in the lesser of these two amounts.) (2) Replaces the authorized \$5 delinquency charge (subject to indexing by the department of financial institutions) for consumer credit sales and consumer loans with a nonindexed delinquency charge of: (A) \$5 if installments are due every 14 days or less; (B) \$25 if installments are due every 15 days or more; or (C) \$25, in the case of a single installment due at least 30 days after the consumer credit sale or consumer loan is made. (3) Specifies that a creditor may not charge or collect a delinquency charge on a payment that: (A) is paid within 10 days after its scheduled due date; and (B) is otherwise a full payment of the payment due for the applicable installment period; if the only delinquency with respect to a consumer credit sale or a consumer loan is attributable to a delinquency charge assessed on an earlier installment. Amends a provision in the chapter in the Uniform Commercial Code concerning secured transactions to provide that upon a secured party's failure to comply with the chapter in the case of a transaction in which consumer goods serve as collateral, a debtor or secondary obligor at the time of the secured party's failure may recover in an individual action specified amounts. (Current law does not specify that the specified amounts must be recovered in an individual action.)

**Effective:** July 1, 2019.

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January 15, 2019, read first time and referred to Committee on Commerce and Technology.

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 614

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

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

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



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

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

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

12 (i) be reasonable in amount;

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

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

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

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

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

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

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

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

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

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

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

42 (v) The charge may not be assessed with respect to any



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



1 agreement must be disclosed in writing to the consumer. The  
2 charge may be disclosed on a unit-cost basis only in the case of  
3 the following transactions:

4 (i) Revolving charge accounts.

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

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

9 (c) If the term of coverage under the GAP agreement is less than  
10 the term of the consumer credit sale, the term of coverage under  
11 the GAP agreement must be disclosed in writing to the consumer.

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

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

15 (i) In the case of GAP coverage for a new motor vehicle, the  
16 manufacturer's suggested retail price (MSRP) for the motor  
17 vehicle.

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

21 (iii) The name of the financing entity taking assignment of the  
22 agreement.

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

24 (v) The name of the creditor selling the agreement.

25 (vi) Information advising the consumer that the consumer may  
26 be able to obtain similar coverage from the consumer's primary  
27 insurance carrier.

28 (vii) A coverage provision that includes a minimum deductible  
29 of five hundred dollars (\$500).

30 (viii) A provision providing for a minimum thirty (30) day  
31 free-look period.

32 (ix) In the case of a consumer credit sale involving a motor  
33 vehicle, a provision excluding the sale of GAP coverage if the  
34 amount financed under the consumer credit sale (not including  
35 the cost of the GAP agreement, the cost of any credit  
36 insurance, and the cost of any warranties or service  
37 agreements) is less than eighty percent (80%) of the  
38 manufacturer's suggested retail price (MSRP), in the case of a  
39 new motor vehicle, or **of** the National Automobile Dealers  
40 Association (NADA) average retail value, in the case of a used  
41 motor vehicle.

42 (x) In the case of a GAP agreement in which the charge for the



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



1 service that:

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

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

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

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

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

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

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

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

38 (a) an earlier installment; or

39 (b) payment due;

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



1           **(3) A creditor may not, directly or indirectly, charge or collect**  
 2 **a delinquency charge on a payment that:**

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

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

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

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

25           ~~(5) The amount of five dollars (\$5) in subsection (1) is subject to~~  
 26 ~~change under the section on adjustment of dollar amounts (IC~~  
 27 ~~24-4.5-1-106).~~

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

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

37           (a) Official fees and taxes.

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

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

41           (i) be reasonable in amount;

42           (ii) bear a reasonable relationship to the lender's costs to





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



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



- 1 five thousand dollars (\$5,000), a one (1) time charge that does  
 2 not exceed five hundred dollars (\$500) for obtaining and  
 3 preparing documents.
- 4 A CPAP provider may not assess, or collect from the consumer  
 5 claimant, any other fee or charge in connection with a CPAP  
 6 transaction, including any finance charges under section 201 or  
 7 508 of this chapter.
- 8 (l) A charge for a GAP agreement, subject to subsection (3).  
 9 (m) With respect to consumer loans made by a person exempt  
 10 from licensing under IC 24-4.5-3-502(1), a charge for a debt  
 11 cancellation agreement, subject to the following:
- 12 (i) A debt cancellation agreement or debt cancellation  
 13 coverage may not be required by the lender, and that fact must  
 14 be disclosed in writing to the consumer.
- 15 (ii) The charge for the initial term of coverage under the debt  
 16 cancellation agreement must be disclosed in writing to the  
 17 consumer. The charge may be disclosed on a unit-cost basis  
 18 only in the case of revolving loan accounts, closed-end credit  
 19 transactions if the request for coverage is made by mail or  
 20 telephone, and closed-end credit transactions if the debt  
 21 cancellation agreement limits the total amount of indebtedness  
 22 eligible for coverage.
- 23 (iii) If the term of coverage under the debt cancellation  
 24 agreement is less than the term of the consumer loan, the term  
 25 of coverage under the debt cancellation agreement must be  
 26 disclosed in writing to the consumer.
- 27 (iv) The consumer must sign or initial an affirmative written  
 28 request for coverage after receiving all required disclosures.
- 29 (v) If debt cancellation coverage for two (2) or more events is  
 30 provided for in a single charge under a debt cancellation  
 31 agreement, the entire charge may be excluded from the loan  
 32 finance charge and imposed as an additional charge under this  
 33 section if at least one (1) of the events is the loss of life, health,  
 34 or income.
- 35 **(n) A charge not to exceed ten dollars (\$10) for procuring a**  
 36 **credit report.**
- 37 The additional charges provided for in subdivisions (f) through (k) **and**  
 38 **in subdivision (n)** are not subject to refund or rebate.
- 39 (2) An additional charge may be made for insurance in connection  
 40 with the loan, other than insurance protecting the lender against the  
 41 debtor's default or other credit loss:
- 42 (a) with respect to insurance against loss of or damage to property



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

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

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

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

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

24 (i) Revolving loan accounts.

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

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

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

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

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

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

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

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



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



- 1 accordance with subdivision (f).  
 2 (h) A lender that sells GAP agreements must:  
 3 (i) insure its GAP agreement obligations under a contractual  
 4 liability insurance policy issued by an insurer authorized to  
 5 engage in the insurance business in Indiana; and  
 6 (ii) retain appropriate records, as required under this article,  
 7 regarding GAP agreements sold, refunded, and expired.  
 8 (4) As used in this section, "debt cancellation agreement" means an  
 9 agreement that provides coverage for payment or satisfaction of all or  
 10 part of a debt in the event of the loss of life, health, or income. The  
 11 term does not include a GAP agreement.  
 12 (5) As used in this section, "expedited payment service" means a  
 13 service offered to a consumer to ensure that a payment made by the  
 14 consumer with respect to a consumer loan will be reflected as paid and  
 15 posted on an expedited basis.  
 16 (6) As used in this section:  
 17 (a) "guaranteed asset protection agreement";  
 18 (b) "guaranteed auto protection agreement"; or  
 19 (c) "GAP agreement";  
 20 means, with respect to consumer loans involving motor vehicles or  
 21 other titled assets, an agreement in which the lender agrees to cancel  
 22 or waive all or part of the outstanding debt after all property insurance  
 23 benefits have been exhausted after the occurrence of a specified event.  
 24 (7) As used in this section, "skip-a-payment service" means a  
 25 service that:  
 26 (a) is offered by a lender to a consumer; and  
 27 (b) permits the consumer to miss or skip a payment due under a  
 28 consumer loan without resulting in default.  
 29 SECTION 4. IC 24-4.5-3-203.5 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 203.5. Delinquency  
 31 Charges — (1) With respect to a consumer loan, refinancing, or  
 32 consolidation, the parties may contract for a delinquency charge of not  
 33 more than:  
 34 (a) five dollars (\$5) on any installment or minimum payment due  
 35 **that is not paid in full within ten (10) days after its scheduled due**  
 36 **date, if installments under the consumer loan, refinancing, or**  
 37 **consolidation are due every fourteen (14) days or less;**  
 38 (b) **twenty-five dollars (\$25) on any installment or minimum**  
 39 **payment due that is not paid in full within ten (10) days after**  
 40 **its scheduled due date, if installments under the consumer**  
 41 **loan, refinancing, or consolidation are due every fifteen (15)**  
 42 **days or more; or**



1           **(c) twenty-five dollars (\$25) on any installment or minimum**  
 2           **payment due that is not paid in full within ten (10) days after**  
 3           **its scheduled due date, in the case of a consumer loan,**  
 4           **refinancing, or consolidation that is payable in a single**  
 5           **installment that is due at least thirty (30) days after the**  
 6           **consumer loan, refinancing, or consolidation is made.**

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

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

20               (a) an earlier installment; or

21               (b) payment due;

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

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

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

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

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

34          (4) If two (2) or more installments, or parts of two (2) or more  
 35          installments, of a precomputed loan are in default for ten (10) days or  
 36          more, the lender may elect to convert the loan from a precomputed loan  
 37          to a loan in which the finance charge is based on unpaid balances. A  
 38          lender that makes this election shall make a rebate under the provisions  
 39          on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date  
 40          of the first delinquent installment, and thereafter may make a loan  
 41          finance charge as authorized by the provisions on loan finance charges  
 42          for consumer loans (IC 24-4.5-3-201) or supervised loans



1 (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the  
 2 amount of any permitted minimum charge (IC 24-4.5-3-210). Any  
 3 deferral charges made on installments due at or after the maturity date  
 4 of the first delinquent installment shall be rebated, and no further  
 5 deferral charges shall be made.

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

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

13 SECTION 5. IC 26-1-9.1-625 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 625. (a) If it is  
 15 established that a secured party is not proceeding in accordance with  
 16 IC 26-1-9.1, a court may order or restrain collection, enforcement, or  
 17 disposition of collateral on appropriate terms and conditions.

18 (b) Subject to subsections (c), (d), and (f), a person is liable for  
 19 damages in the amount of any loss caused by a failure to comply with  
 20 IC 26-1-9.1. Loss caused by a failure to comply may include loss  
 21 resulting from the debtor's inability to obtain, or increased costs of,  
 22 alternative financing.

23 (c) Except as otherwise provided in IC 26-1-9.1-628:

24 (1) a person that, at the time of the failure, was a debtor, was an  
 25 obligor, or held a security interest in or other lien on the collateral  
 26 may recover damages under subsection (b) for its loss; and

27 (2) if the collateral is consumer goods, a person that was a debtor  
 28 or a secondary obligor at the time a secured party failed to comply  
 29 with IC 26-1-9.1-601 through IC 26-1-9.1-628 may recover, **in an**  
 30 **individual action**, for that failure in any event an amount not less  
 31 than the credit service charge plus ten percent (10%) of the  
 32 principal amount of the obligation or the time-price differential  
 33 plus ten percent (10%) of the cash price.

34 (d) A debtor whose deficiency is eliminated under IC 26-1-9.1-626  
 35 may recover damages for the loss of any surplus. However, a debtor or  
 36 secondary obligor whose deficiency is eliminated or reduced under  
 37 IC 26-1-9.1-626 may not otherwise recover under subsection (b) for  
 38 noncompliance with the provisions of IC 26-1-9.1-601 through  
 39 IC 26-1-9.1-628 relating to collection, enforcement, disposition, or  
 40 acceptance.

41 (e) In addition to any damages recoverable under subsection (b), the  
 42 debtor, consumer obligor, or person named as a debtor in a filed record,





1 as applicable, may recover five hundred dollars (\$500) in each case  
2 from a person that:

3 (1) fails to comply with IC 26-1-9.1-208;

4 (2) fails to comply with IC 26-1-9.1-209;

5 (3) files a record that the person is not entitled to file under  
6 IC 26-1-9.1-509(a);

7 (4) fails to cause the secured party of record to file or send a  
8 termination statement as required by IC 26-1-9.1-513(a) or  
9 IC 26-1-9.1-513(c);

10 (5) fails to comply with IC 26-1-9.1-616(b)(1) and whose failure  
11 is part of a pattern or consistent with a practice, of  
12 noncompliance;

13 (6) fails to comply with IC 26-1-9.1-616(b)(2); or

14 (7) fails to comply with IC 26-1-9.1-502(f).

15 (f) A debtor or consumer obligor may recover damages under  
16 subsection (b) and, in addition, five hundred dollars (\$500) in each  
17 case from a person that, without reasonable cause, fails to comply with  
18 a request under IC 26-1-9.1-210. A recipient of a request under  
19 IC 26-1-9.1-210 that never claimed an interest in the collateral or  
20 obligations that are the subject of a request under that section has a  
21 reasonable excuse for failure to comply with the request within the  
22 meaning of this subsection.

23 (g) If a secured party fails to comply with a request regarding a list  
24 of collateral or a statement of account under IC 26-1-9.1-210, the  
25 secured party may claim a security interest only as shown in the list or  
26 statement included in the request as against a person that is reasonably  
27 misled by the failure.

