

SB 613 Bill Analysis

While typically we would take time to verify our interpretations of lending bills with state regulators, the fact that this bill could move through the Senate by Tuesday suggests we cannot take the time to do so, so we publish the following with acknowledgement that it reflects our *best* understanding of the bill as written.

CHAPTER 3 (CONSUMER CREDIT)

The bill makes sweeping changes to our consumer lending laws covering home equity loans, car loans, personal installment loans and other consumer credit products.

- Any loan (except mortgages) could charge 36% interest. Currently lenders can charge the greater of: a blended rate of 36% on loans of \$2k or less, 21% on loans between \$2k-\$4k, 15% on loans above \$4k OR a flat 25%, whichever is greater. **This means lenders could charge \$6,000 more for five-year car loan of \$15,000, or \$14,000 more for a second mortgage of \$35,000.**
- Loan finance charges can still be precomputed, meaning a borrower receives a small rebate upon refinance that is advantageous to the lender
- The minimum credit service charge increases from \$30 to \$50
- Still allows credit insurance and appears to make changes to how the costs of this can be calculated.
- There are changes to subordinate lien mortgage transactions
- The non-refundable prepaid finance charge that can be added *in addition to* 36% interest increases from \$50 to \$150
 - If the loan is paid in full by a new loan in less than 61 days, lender may not assess a new charge
 - If loan is paid in full by a new loan more than 60 days after the date of the prior loan, the lender may charge \$150 on the new loan or increased credit line
 - Limited to 2 per year “if the new loans are used to pay a previous loan from the lender”

OUR BIGGEST CONCERN: Allowing up-front charges, precomputed interest, and credit insurance create a strong incentive for loan flipping, a model [some installment lenders use to keep borrowers trapped in high-cost debt](#). Also, many borrowers are already

struggling to keep up with subprime auto loans and this would increase the cost of these loans substantially. Currently, [the number of auto loans 90+ days delinquent](#) is at a record high.

CHAPTER 7 (SMALL LOANS)

This bill preserves the current payday product – which would undo our efforts in SB 104 - and adds a new payday installment loan similar to what was in HB 1319 last year.

Loan size	Months	Up-front fee	Total monthly fees	Total fees	Total costs	APR	Monthly payment	Monthly income needed to qualify	
\$605	6	\$90.75	\$	290	\$381.15	\$986	192%	\$164	\$821.79
\$800	6	\$105.38	\$	384	\$489.38	\$1,289	187%	\$215	\$1,074.48
\$1,500	6	\$157.88	\$	720	\$877.88	\$2,378	180%	\$396	\$1,981.56
9 month loans									
\$605	9	\$90.75	\$	436	\$526.35	\$1,131	177%	\$126	\$628.53
\$800	9	\$105.38	\$	576	\$681.38	\$1,481	174%	\$165	\$822.99
\$1,500	9	\$157.88	\$	1,080	\$1,237.88	\$2,738	169%	\$304	\$1,521.04
12-month loan									

			\$					
\$605	12	\$90.75	581	\$671.55	\$1,277	167%	\$106	\$531.90
\$800	12	\$105.38	\$ 768	\$873.38	\$1,673	164%	\$139	\$697.24
\$1,500	12	\$157.88	\$ 1,440	\$1,597.88	\$3,098	161%	\$258	\$1,290.78

OUR BIGGEST CONCERN: In Indiana, we allowed payday lenders an exemption from criminal loansharking at 72% APR because, in theory, it would cost more and be more risky to offer a two-week loan. We now know we created a problematic model that needs reform. Instead, this chapter undoes reform and adds to what payday lenders can offer. While the installment loan has (relatively) lower APRs than payday loans, it will offers much larger amounts of money to much lower-income borrowers, conditioned on access to their bank account. Currently, the average payday loan is about \$350, likely because borrowers are limited to taking out 20% of their paycheck or Social Security check or other benefit. With the payday installment loan, the standard is that the *payment* must be 20% of a borrower’s paycheck. Also, a borrower can be in high-cost payday loan debt for two years straight before a cooling off period of 7 days applies.

ADDS CHAPTER 8 (SMALL DOLLAR LOANS)

This bill adds a new loan type called a “small dollar loan.” This new chapter would allow:

- Loans of less than \$4000 with a six month minimum term, with some charges capped at 99% per year. The loan can be precomputed with the following additional charges:
 - If this loan is **\$1500 or less**, a nonrefundable prepaid finance charge of \$150 that is fully earned at consummation, no refund
 - If the loan is refinanced before 61 days, no additional prepaid finance charge
 - If refinanced more than 60 days after original loan, \$50
 - In 12 months, 2 nonrefundable prepaid finance charges can be charged to same debtor
 - Allows all the additional charges under IC 24-4.5-3-202, such as credit insurance
 - Allows delinquency charges
 - If the loan is \$1500+, a \$100 nonrefundable prepaid finance charge is allowed that is fully earned at consummation
 - Nonrefundable finance charges do not count toward loansharking cap

- A monthly installment account handling charge of unspecified amount that may be exempt from 99% cap and exempt from loansharking is also allowed; it may be that the installment account handling charge mirrors the \$8 per \$100 charge on payday installment loans

CHAPTER 8 - Small Dollar Loan

Loan Size	Term	Up-front fee*	Interest	Total finance charge	Costs	Finance Charge Rate	Monthly payment	Credit insurance & interest on financed credit insurance	Monthly account handling charge	TOTAL APR
\$250	6	\$77		\$77	\$327	99%	\$55	???	??	??
\$1,000	12	\$150	\$465	\$615	\$1,615	99%	\$135	??	??	??
\$2,000	12	\$100	\$1,120	\$1,220	\$3,220	99%	\$268	??	??	??
\$4,000	24	\$100	\$5,240	\$5,340	\$9,340	99%	\$389	??	??	??

OUR BIGGEST CONCERN: This looks very much [like it would allow the predatory model of lending described here.](#)

CRIMINAL LOANSHARKING

-Changes the definition of “rate” to include nonrefundable prepaid finance charge

-Says felony criminal loansharking is two times the “rate” in IC 24-4.5-3-201

OUR BIGGEST CONCERN: One possible reading of this is that criminal loan sharking is now two times 36% plus the new \$150 fee, which could result in a usury law that is essentially toothless.