

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1705, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 4, after line 42, begin a new paragraph and insert:
2 "SECTION 6. IC 28-1-2-23 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. (a) A corporation
4 or an individual acting directly, indirectly, or through or in concert with
5 one (1) or more other corporations or individuals may not acquire
6 control of any bank, trust company, stock savings bank, bank holding
7 company, corporate fiduciary, or industrial loan and investment
8 company unless the department has received an application for change
9 in control by which the department is given one hundred twenty (120)
10 days prior written notice of the proposed change in control and within
11 that time the department has issued a notice approving the proposed
12 change in control. The application shall contain the name and address
13 of the corporation, individual, or individuals, who propose to acquire
14 control.
15 (b) The period for approval under subsection (a) may be extended:
16 (1) in the discretion of the director for an additional thirty (30)

1 days; and
2 (2) not to exceed two (2) additional times for not more than
3 forty-five (45) days each time if:

4 (A) the department determines that the corporation, individual,
5 or individuals, who propose to acquire control have not
6 submitted substantial evidence of the qualifications described
7 in subsection (c);

8 (B) the department determines that any material information
9 submitted is substantially inaccurate; or

10 (C) the department has been unable to complete the
11 investigation of the corporation, individual, or individuals,
12 who propose to acquire control because of any delay caused by
13 or the inadequate cooperation of the corporation, individual,
14 or individuals.

15 (c) The department shall issue a notice approving the application
16 only after it has become satisfied that both of the following apply:

17 (1) The corporation, individual, or individuals who propose to
18 acquire control are qualified by competence, experience,
19 character, and financial responsibility to control and operate the
20 bank, trust company, stock savings bank, bank holding company,
21 a corporate fiduciary, or industrial loan and investment company
22 in a legal and proper manner.

23 (2) The interests of the stockholders, depositors, and creditors of
24 the bank, trust company, stock savings bank, bank holding
25 company, a corporate fiduciary, or industrial loan and investment
26 company and the interests of the public generally will not be
27 jeopardized by the proposed change in control.

28 (d) As used in this section, "bank holding company" means any
29 company (as defined in IC 28-2-15-5 before July 1, 1992, and as
30 defined in IC 28-2-16-5 beginning July 1, 1992) that controls one (1)
31 or more state chartered banks.

32 (e) As used in this section, "control" means the power directly or
33 indirectly to:

34 (1) direct the management or policies of a bank, a trust company,
35 a bank holding company, a corporate fiduciary, or an industrial
36 loan and investment company; or

37 (2) vote at least twenty-five percent (25%) of any class of voting
38 securities of a bank, a trust company, a bank holding company, a

1 corporate fiduciary, or an industrial loan and investment
2 company.

3 (f) The president or other chief executive officer of a financial
4 institution shall report to the director of the department any transfer or
5 sale of shares of stock of the financial institution that results in direct
6 or indirect ownership by a stockholder or an affiliated group of
7 stockholders of at least ten percent (10%) of the outstanding stock of
8 the financial institution. The report required by this section must be
9 made not later than ten (10) days after the transfer of the shares of
10 stock on the books of the financial institution."

11 Page 5, between lines 13 and 14, begin a new paragraph and insert:

12 "SECTION 7. IC 28-1-20-4, AS AMENDED BY P.L.215-1999,
13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2001]: Sec. 4. (a) Except as provided in subsections (c), (d),
15 (g), and (k) it is unlawful for any person, firm, limited liability
16 company, or corporation (other than a bank or trust company or
17 corporate fiduciary organized or reorganized under IC 28 or statutes in
18 effect at the time of organization or reorganization or under the laws of
19 the United States):

20 (1) to use the word "~~trust~~" or the word "bank" as a part of the
21 name or title of the person, firm, or corporation; or

22 (2) to advertise or represent the person, firm, limited liability
23 company, or corporation to the public:

24 (A) as a bank or trust company or a corporate fiduciary; or

25 (B) as affording the services or performing the duties which by
26 law only a bank or trust company or a corporate fiduciary is
27 entitled to afford and perform.

28 (b) A financial institution organized under the laws of any state or
29 the United States that establishes a branch office under this title is
30 authorized to do business at that branch using a name other than the
31 name of its home office.

32 (c) Notwithstanding the prohibitions of this section, an out-of-state
33 financial institution with the word "bank" in its legal name may use the
34 word "bank" if the financial institution is insured by the Federal
35 Deposit Insurance Corporation or its successor.

36 (d) Notwithstanding subsection (a), a building and loan association
37 organized under IC 28-4 (before its repeal) may include in its name or
38 title:

- 1 (1) the words "savings bank"; or
2 (2) the word "bank" if the name or title also includes either the
3 words "savings bank" or letters "SB".

4 A building and loan association that includes "savings bank" in its title
5 under this section does not by that action become a savings bank for
6 purposes of IC 28-6.1.

7 (e) The name or title of a savings bank governed by IC 28-6.1 must
8 include the words "savings bank" or the letters "SB".

9 (f) A savings association may include in its name the words
10 "building and loan association".

11 (g) Notwithstanding subsection (a), a bank holding company (as
12 defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a
13 part of its name. However, this subsection does not permit a bank
14 holding company to advertise or represent itself to the public as
15 affording the services or performing the duties that by law a bank or
16 trust company only is entitled to afford and perform.

17 (h) The department is authorized to investigate the business affairs
18 of any person, firm, limited liability company, or corporation that uses
19 "bank" or ~~"trust"~~ in its title or holds itself out as a **bank, corporate**
20 **fiduciary**, or trust **company** for the purpose of determining whether
21 the person, firm, limited liability company, or corporation is violating
22 any of the provisions of this article, and, for that purpose, the
23 department and its agents shall have access to any and all of the books,
24 records, papers, and effects of the person, firm, limited liability
25 company, or corporation. In making its examination, the department
26 may examine any person and the partners, officers, members, or agents
27 of the firm, limited liability company, or corporation under oath,
28 subpoena witnesses, and require the production of the books, records,
29 papers, and effects considered necessary. On application of the
30 department, the circuit or superior court of the county in which the
31 person, firm, limited liability company, or corporation maintains a
32 place of business shall, by proper proceedings, enforce the attendance
33 and testimony of witnesses and the production and examination of
34 books, papers, records, and effects.

35 (i) The department is authorized to exercise the powers under
36 IC 28-11-4 against a person, firm, limited liability company, or
37 corporation that improperly holds itself out as a financial institution.

38 (j) A person, firm, limited liability company, or corporation who

1 violates this section is subject to a penalty of two hundred dollars
 2 (\$200) per day for each and every day during which the violation
 3 continues. The penalty imposed shall be recovered in the name of the
 4 state on relation of the department and, when recovered, shall be paid
 5 into the financial institutions fund established by IC 28-11-2-9.

6 (k) The word "bank" may not be included in the name of a corporate
 7 fiduciary."

8 Page 11, between lines 1 and 2, begin a new paragraph and insert:

9 "SECTION 16. IC 28-5-3-2 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. When, in case of any
 11 loan made by any industrial loan and investment company organized
 12 under the laws of this state, the borrower or any other person furnishing
 13 security on behalf of the borrower, shall, as an inducement to such
 14 industrial loan and investment company to make the loan, represent to
 15 it, in writing, that he or she is eighteen (18) years of age or older or
 16 otherwise make any false statement or representation to any such
 17 industrial loan and investment company, and such company is
 18 deceived, and the loan is made in reliance upon such representation,
 19 neither the person so ~~representating~~ **representing** nor any one in his
 20 or her behalf nor any person otherwise legally liable to pay such loan,
 21 shall afterwards be allowed, as against such industrial loan and
 22 investment company, to take advantage of the fact that the person
 23 making the representation was under eighteen (18) years of age, but
 24 each person shall be estopped by such representation."

25 Page 23, line 28, delete "12 U.S.C. 24A" and insert "**12 U.S.C. 24a**".

26 Page 24, line 20, delete "protect the financial institution from
 27 undue".

28 Page 24, line 21, delete "risk or to".

- 1 Page 24, line 39, delete "12 U.S.C. 24A(d)" and insert "**12 U.S.C.**
- 2 **24a(d)**".
- 3 Renumber all SECTIONS consecutively.
(Reference is to HB 1705 as introduced.)

and when so amended that said bill do pass.

Representative Bodiker