

Adopted <span style="margin-left: 100px;">Rejected</span>
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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.**

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Representative Bodiker