

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7068**

**BILL NUMBER:** HB 1834

**NOTE PREPARED:** Apr 26, 2003

**BILL AMENDED:** Apr 25, 2003

**SUBJECT:** Financial institutions.

**FIRST AUTHOR:** Rep. Bardon

**FIRST SPONSOR:** Sen. Paul

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (CCR Amended) The bill changes the date as of which reference is made to Federal laws and regulations. The bill reduces bond requirements for payday lenders. The bill defines "month" in the pawnbroker act to ensure consistent calculation of interest. The bill specifically provides for the right of credit unions to buy and sell assets. The bill provides for the release of information to state and Federal supervisory agencies, Federal law enforcement agencies, and Federal prosecutorial agencies or offices. The bill authorizes the Department of Financial Institutions (the Department) to remove officers, directors, and employees of financial institutions for certain practices, violations, and breaches. The bill allows the Department to make certain final orders public. The bill requires Department approval for reductions in capital stock, capital surplus, and preferred stock levels. The bill modifies provisions concerning the establishment of trust offices. The bill prohibits the unauthorized use of: (1) the term banc or banco; and (2) the name of an existing bank or bank holding company or a name confusingly similar to the name of an existing bank or bank holding company. The bill treats savings associations and savings banks as though they are members of the Federal Reserve System even if they are not members. The bill requires approval of the Department prior to establishing a subsidiary. The bill modifies the change of control statute. The bill broadens the ability of banks to invest in Federal Home Loan Bank stock while maintaining a ceiling on such investments. The bill makes technical corrections.

**Effective Date:** Upon passage; July 1, 2003.

**Explanation of State Expenditures:** *Removal of Bank Employees by the Department:* The Department would have the authorization to remove certain employees of financial institutions as listed above for violations under the bill. Given the Department already holds hearings for financial institution employees that violate current law under IC 28-11, the Department's resources should be adequate to implement this

provision.

***Department Approval:*** The bill requires Department approval for reductions in capital stock, capital surplus, and preferred stock levels; and for a financial institution to establish a subsidiary. The Department's resources should be adequate to implement this provision.

**Explanation of State Revenues: Criminal Penalties:** Under the bill, the inclusion of savings banks and associations as Federal Reserve System members places them under the penalty provisions of current members of the Federal Reserve System. Reckless violation of this provision would constitute a Class B misdemeanor.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

***Civil Penalties: Removal of Bank Employees by the Department-*** Under the bill, if a financial institution willfully permits a person to serve in a financial institution that has had an employee of the institution removed by the Department would be required to pay a civil penalty of \$500 per day that the violation continues. Civil penalties paid as a result of this provision would be deposited into the Financial Institutions Fund.

***Small Loan Bonds:*** Under current law, persons engaged in making small loans are required to post a bond with the Department. If a lender ceases operation in Indiana, the lender must maintain the bond for additional five years with the Department. The bill reduces from five to two years the amount of time a bond must be filed with the Department after cessation of lending activities in Indiana.

***Illegal Use of Existing Bank Name-*** Under the bill, the Department may order a bank to cease and desist the false use of an existing bank name or a confusingly similar bank name. If the bank persists in using the name, the Department may impose a civil penalty of up to \$15,000 per each violation of the cease and desist order. The Department may adopt rules to implement this provision.

Under current law, it is illegal to use in a business title or advertise the word bank as a part of the name or title by a person, firm, limited liability company, or corporation (not a bank or trust company). The bill includes bank holding companies that are exempt from this provision. Additionally, the bill makes it illegal for the above listed entities to use in a business title or advertise with the words "banc" or "banco." The bill raises the penalty on entities in violation of this provision from \$200 to \$500 per each day the violation continues. Penalties from this provision are deposited in the Financial Institutions Fund.

**Explanation of Local Expenditures: Criminal Penalties:** A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues: Criminal Penalties:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited

in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Department of Financial Institutions.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:**

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