



Reprinted  
March 4, 2003

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## HOUSE BILL No. 1654

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DIGEST OF HB 1654 (Updated March 3, 2003 7:26 PM - DI 92)

**Citations Affected:** IC 28-5; IC 28-8.

**Synopsis:** Financial institutions. Revises definitions in financial institutions law. Provides for the release of information to state and federal supervisory agencies, federal law enforcement agencies, and federal prosecutorial agencies or offices.

**Effective:** July 1, 2003.

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### Bardon, Burton

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January 21, 2003, read first time and referred to Committee on Financial Institutions.  
February 17, 2003, reported — Do Pass.  
March 3, 2003, read second time, amended, ordered engrossed.

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HB 1654—LS 7175/DI 108+



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March 4, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

## HOUSE BILL No. 1654

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

- 1 SECTION 1. IC 28-5-1-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter and  
3 unless a different meaning appears from the context:  
4 (a) The term "company" ~~shall mean and include~~ **means** any  
5 corporation to which this chapter is applicable.  
6 (b) The term "department" means the department of financial  
7 institutions of the state of Indiana.  
8 (c) The term "sound capital" means and includes the paid-in and  
9 unimpaired capital, the unimpaired surplus, and the unimpaired  
10 proceeds of the capital and investment notes and capital debentures of  
11 any company which have been issued under the authority and with the  
12 approval in writing of the department together with all accrued and  
13 unpaid interest on said capital and investment notes and capital  
14 debentures which by the terms thereof is payable:  
15 (i) at maturity;  
16 (ii) after a one year notice in writing given by the holder to the  
17 company, except that any such company may waive such notice

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1 whenever its reserve balance exceeds the amount provided in  
 2 section 13 of this chapter; or  
 3 (iii) at a fixed or determinable date or dates, which fixed or  
 4 determinable date or dates are at intervals of not less than four (4)  
 5 years.

6 The department is hereby authorized to approve the issue of capital and  
 7 investment notes and capital debentures by any company to create  
 8 sound capital, but no such notes and debentures shall be authorized or  
 9 approved by the department unless such notes and debentures shall, by  
 10 their terms, provide that the debt, including all accrued and unpaid  
 11 interest, evidenced thereby shall be subordinate, in order of priority on  
 12 liquidation, to all of the obligations of the company to the holders of its  
 13 installment and fully paid certificates of indebtedness or investment  
 14 and creditors other than such creditors and holders who have expressly  
 15 agreed otherwise and other than creditors who are such by reason of the  
 16 ownership of such notes or debentures which the department is  
 17 authorized to approve by this section.

18 SECTION 2. IC 28-8-1-1 IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2003]: Sec. 1. For the purposes of this chapter:

20 (a) "Department" ~~shall mean~~ **means** the department of financial  
 21 institutions for the state of Indiana.

22 (b) "Bank services" ~~shall mean~~ **means** check and deposit sorting and  
 23 posting, computation and posting of interest and other credits and  
 24 charges, preparation and mailing of checks, statements, notices, and  
 25 similar items, or any other clerical, bookkeeping, accounting,  
 26 statistical, or similar functions performed for a bank or trust company.

27 (c) "Bank service corporation" ~~shall mean~~ **means** a corporation  
 28 organized to perform bank services for two or more banks or trust  
 29 companies, each of which owns a portion of the capital stock of such  
 30 corporation.

31 (d) "Invest" shall include any advance of funds to a bank service  
 32 corporation, whether by the purchase of stock, the making of a loan or  
 33 loans, or otherwise; provided, however, payment for rent earned, goods  
 34 sold and delivered, or services rendered prior to the making of such  
 35 payment shall not be deemed an investment.

36 SECTION 3. IC 28-8-4-47 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding  
 38 any other provision of law, all information or reports obtained by the  
 39 director from an applicant, a licensee, or an authorized delegate,  
 40 whether obtained through reports, applications, examination, audits,  
 41 investigation, or otherwise, including but not limited to:

42 (1) all information contained in or related to:

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1 (A) examination;  
 2 (B) investigation;  
 3 (C) operation; or  
 4 (D) condition reports prepared by, on behalf of, or for the use  
 5 of the director; or  
 6 (2) financial statements, balance sheets, or authorized delegate  
 7 information;  
 8 are confidential and may not be disclosed or distributed outside the  
 9 department by the director or any officer or employee of the  
 10 department, except as provided in subsection (b).  
 11 (b) The director may provide for the release of information to  
 12 representatives of state or federal:  
 13 (1) **financial institution supervisory agencies;**  
 14 (2) **law enforcement agencies; or**  
 15 (3) **prosecutorial agencies or offices;**  
 16 ~~who state in writing under oath that they shall~~ **are required to**  
 17 ~~maintain the confidentiality of the information if:~~ **as described in**  
 18 **IC 28-1-2-30.**  
 19 (1) ~~the licensee provides consent before the release; or~~  
 20 (2) ~~the director finds that the release is reasonably necessary for~~  
 21 ~~the protection of the public and in the interests of justice; and the~~  
 22 ~~licensee has been given prior notice by the director to release the~~  
 23 ~~information.~~  
 24 (c) Nothing in this section shall prohibit the director from releasing  
 25 to the public a list of persons licensed under this chapter or from  
 26 releasing aggregated financial data on such licensees.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1654, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BARDON, Chair

Committee Vote: yeas 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1654 be amended to read as follows:

Page 2, after line 35, begin a new paragraph and insert:

"SECTION 3. IC 28-8-4-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including but not limited to:

- (1) all information contained in or related to:
  - (A) examination;
  - (B) investigation;
  - (C) operation; or
  - (D) condition reports prepared by, on behalf of, or for the use of the director; or
- (2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the department, except as provided in subsection (b).

(b) The director may provide for the release of information to representatives of state or federal:

- (1) financial institution supervisory agencies;**
- (2) law enforcement agencies; or**
- (3) prosecutorial agencies or offices;**

~~who state in writing under oath that they shall be required to maintain the confidentiality of the information if:~~ **as described in IC 28-1-2-30.**

- ~~(1) the licensee provides consent before the release; or~~
- ~~(2) the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice, and the licensee has been given prior notice by the director to release the information.~~

(c) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on such licensees."

(Reference is to HB 1654 as printed February 18, 2003.)

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