



February 18, 2003

# HOUSE BILL No. 1834

DIGEST OF HB 1834 (Updated February 12, 2003 5:39 PM - DI 108)

**Citations Affected:** IC 24-4.5; IC 28-1; IC 28-2; IC 28-6.1; IC 28-7; IC 28-8; IC 28-10; IC 28-11; IC 28-12; IC 28-13; IC 28-15; noncode.

**Synopsis:** Financial institutions. Changes the date as of which reference is made to federal laws and regulations. Reduces bond requirements for payday lenders. Defines "month" in the pawnbroker act to ensure consistent calculation of interest. Specifically provides for the right of credit unions to buy and sell assets. Authorizes the department of financial institutions to remove officers, directors, and employees of financial institutions for certain practices, violations, and breaches. Requires department approval for reductions in capital stock, capital surplus, and preferred stock levels. Modifies provisions concerning the establishment of trust offices. Treats savings associations and savings banks as though they are members of the Federal Reserve System even if they are not members. Requires approval of the department prior to establishing a subsidiary. Modifies the change of control statute. Broadens the ability of banks to invest in Federal Home Loan Bank stock while maintaining a ceiling on such investments. Makes technical corrections.

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

**Bardon, Burton**

January 23, 2003, read first time and referred to Committee on Financial Institutions.  
February 17, 2003, amended, reported — Do Pass.

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HB 1834—LS 7068/DI 108+



February 18, 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. 1834

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 24-4.5-1-102, AS AMENDED BY P.L.82-2002,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2003]: Sec. 102. Purposes; Rules of Construction(1) This  
4 article shall be liberally construed and applied to promote its  
5 underlying purposes and policies.

6 (2) The underlying purposes and policies of this article are:

7 (a) to simplify, clarify, and modernize the law governing retail  
8 installment sales, consumer credit, small loans, and usury;

9 (b) to provide rate ceilings to assure an adequate supply of credit  
10 to consumers;

11 (c) to further consumer understanding of the terms of credit  
12 transactions and to foster competition among suppliers of  
13 consumer credit so that consumers may obtain credit at  
14 reasonable cost;

15 (d) to protect consumer buyers, lessees, and borrowers against  
16 unfair practices by some suppliers of consumer credit, having due  
17 regard for the interests of legitimate and scrupulous creditors;

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- 1 (e) to permit and encourage the development of fair and
- 2 economically sound consumer credit practices;
- 3 (f) to conform the regulation of consumer credit transactions to
- 4 the policies of the Federal Consumer Credit Protection Act; and
- 5 (g) to make uniform the law including administrative rules among
- 6 the various jurisdictions.

7 (3) A reference to a requirement imposed by this article includes  
 8 reference to a related rule of the department adopted pursuant to this  
 9 article.

10 (4) A reference to a federal law in IC 24-4.5 is a reference to the law  
 11 in effect December 31, ~~2001~~: **2002**.

12 SECTION 2. IC 24-4.5-7-401, AS ADDED BY P.L.38-2002,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2003]: Sec. 401. (1) Except as provided in subsection (2), a  
 15 small loan may not be made for a term of less than fourteen (14) days.

16 (2) After the consumer's third consecutive small loan, ~~renewal~~;  
 17 another small loan may not be made to that consumer within seven (7)  
 18 days after the date of the third consecutive small loan unless the new  
 19 small loan is for a term of twenty-eight (28) days or longer.

20 SECTION 3. IC 24-4.5-7-413, AS ADDED BY P.L.38-2002,  
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2003]: Sec. 413. (1) A person engaged in making small loans  
 23 under this chapter shall post a bond to the department in the amount of  
 24 fifty thousand dollars (\$50,000) for each location where small loans  
 25 will be made, up to a maximum bond amount of five hundred thousand  
 26 dollars (\$500,000).

27 (2) A bond posted under subsection (1) must continue in effect for  
 28 ~~five (5)~~ **two (2)** years after the lender ceases operation in Indiana. The  
 29 bond must be available to pay damages and penalties to a consumer  
 30 harmed by a violation of this chapter.

31 SECTION 4. IC 28-1-2-23, AS AMENDED BY P.L.134-2001,  
 32 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2003]: Sec. 23. (a) A corporation or an individual acting  
 34 directly, indirectly, or through or in concert with one (1) or more other  
 35 corporations or individuals may not acquire control of any bank, trust  
 36 company, stock savings bank, ~~bank~~ holding company, corporate  
 37 fiduciary, or industrial loan and investment company unless the  
 38 department has received an application for change in control by which  
 39 the department is given one hundred twenty (120) days prior written  
 40 notice of the proposed change in control and within that time the  
 41 department has issued a notice approving the proposed change in  
 42 control. The application shall contain the name and address of the

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1 corporation, individual, or individuals, who propose to acquire control.

2 (b) The period for approval under subsection (a) may be extended:

3 (1) in the discretion of the director for an additional thirty (30)  
4 days; and

5 (2) not to exceed two (2) additional times for not more than  
6 forty-five (45) days each time if:

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

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

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

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

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

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

31 (d) As used in this section, "~~bank~~ "holding company" means any  
32 company (as defined in IC 28-2-15-5 before July 1, 1992, and as  
33 defined in IC 28-2-16-5 beginning July 1, 1992) that **directly or**  
34 **indirectly** controls one (1) or more state chartered ~~banks~~: **financial**  
35 **institutions**.

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

38 (1) direct the management or policies of a bank, a trust company,  
39 a ~~bank~~ holding company, a corporate fiduciary, or an industrial  
40 loan and investment company; or

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

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

12 SECTION 5. IC 28-1-11-12.5 IS ADDED TO THE INDIANA  
13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
14 [EFFECTIVE JULY 1, 2003]: **Sec. 12.5. Subject to any limitations**  
15 **imposed by the department through policy, a bank or trust**  
16 **company may do any of the following:**

17 (1) **Invest the money deposited in the bank or trust company**  
18 **in the shares of the capital stock, bonds, debentures, notes, or**  
19 **other obligations of a federal home loan bank of the United**  
20 **States.**

21 (2) **Become a member of the federal home loan bank of the**  
22 **district in which Indiana is located or an adjoining district.**

23 (3) **Borrow money from:**

24 (A) **a federal home loan bank described in subdivision (2);**

25 (B) **the Federal Deposit Insurance Corporation; or**

26 (C) **any other corporation.**

27 (4) **Transfer, assign to, and pledge with a federal home loan**  
28 **bank described in subdivision (2), the Federal Deposit**  
29 **Insurance Corporation, or other corporation, any of the**  
30 **bonds, notes, contracts, mortgages, securities, or any other**  
31 **property of the bank or trust company held or acquired as**  
32 **security for the payment of loans entered into under**  
33 **subdivision (3).**

34 (5) **Exercise all rights, powers, and privileges conferred upon,**  
35 **and do all things and perform all acts required of, members**  
36 **or shareholders of a federal home loan bank by the Federal**  
37 **Home Loan Bank Act (12 U.S.C. 1421 through 1449).**

38 SECTION 6. IC 28-2-13-26 IS AMENDED TO READ AS  
39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A bank, trust  
40 company, corporate fiduciary, or savings bank **organized under the**  
41 **laws of this state** may establish a trust office to exercise its powers as  
42 a fiduciary **to conduct business** in any location that is approved by the

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1 department. Before the department approves a trust office **to exercise**  
 2 **powers as a fiduciary** under this subsection, it must determine to its  
 3 satisfaction that the bank, trust company, corporate fiduciary, or  
 4 savings bank will have adequate capital, sound management, and  
 5 adequate future earnings prospects after the establishment of the trust  
 6 office.

7 (b) A trust office established under this section by a bank, trust  
 8 company, or savings bank shall not:

- 9 (1) receive deposits;  
 10 (2) pay checks; or  
 11 (3) lend money;

12 at the trust office.

13 SECTION 7. IC 28-6.1-8-8 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **Subject to any**  
 15 **limitations imposed by the department through policy, a** ~~A~~ savings  
 16 bank may do any of the following:

17 (1) Invest the money deposited in the savings bank in the shares  
 18 of the capital stock, bonds, debentures, notes, or other obligations  
 19 of a federal home loan bank of the United States.

20 (2) Become a member of the federal home loan bank of this or an  
 21 adjoining district.

22 (3) Borrow money from:

- 23 (A) a bank described in subdivision (2);  
 24 (B) the Federal Deposit Insurance Corporation; or  
 25 (C) any other corporation.

26 (4) Transfer, assign to, and pledge with a bank described in  
 27 subdivision (2), the Federal Deposit Insurance Corporation, or  
 28 other corporation, any of the bonds, notes, contracts, mortgages,  
 29 securities, or other property of the savings bank held or acquired,  
 30 as security for the payment of loans entered into under  
 31 subdivision (3).

32 (5) Exercise all rights, powers, and privileges conferred upon, and  
 33 to do all things and perform all acts required of, members or  
 34 shareholders of a federal home loan bank by the Federal Home  
 35 Loan Bank Act (12 U.S.C. 1421 through 1449).

36 SECTION 8. IC 28-6.1-20 IS ADDED TO THE INDIANA CODE  
 37 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2003]:

39 **Chapter 20. Applicability of the Federal Reserve Act.**

40 **Sec. 1. For purposes of this article, a savings bank that is not a**  
 41 **member of the Federal Reserve System is subject to Sections 23A**  
 42 **and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) to**

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1 **the same extent and in the same manner as if the savings bank were**  
 2 **a member of the Federal Reserve System.**

3 **Sec. 2. A violation of Section 23A or 23B of the Federal Reserve**  
 4 **Act (12 U.S.C. 371c or 371c-1) by a savings bank or a subsidiary**  
 5 **constitutes a violation of this section.**

6 SECTION 9. IC 28-7-1-9, AS AMENDED BY P.L.134-2001,  
 7 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2003]: Sec. 9. A credit union has the following powers:

9 (1) To issue shares of its capital stock to its members. No  
 10 commission or compensation shall be paid for securing members  
 11 or for the sale of shares.

12 (2) To make loans to members or other credit unions. A loan to  
 13 another credit union may not exceed twenty percent (20%) of the  
 14 paid-in capital and surplus of the credit union making the loan.

15 (3) To make loans to officers, directors, or committee members,  
 16 but only if:

17 (A) the loan complies with all requirements under this chapter  
 18 with respect to loans to other borrowers and is not on terms  
 19 more favorable than those extended to other borrowers;

20 (B) upon the making of the loan, the aggregate amount of  
 21 loans outstanding under this subdivision will not exceed  
 22 twenty percent (20%) of the unimpaired capital and surplus of  
 23 the credit union;

24 (C) the loan is approved by the credit committee or loan  
 25 officer; and

26 (D) the borrower takes no part in the consideration of or vote  
 27 on the application.

28 (4) To invest in any of the following:

29 (A) Bonds, notes, or certificates that are the direct or indirect  
 30 obligations of the United States, or of the state, or the direct  
 31 obligations of a county, township, city, town, or other taxing  
 32 district or municipality or instrumentality of Indiana and that  
 33 are not in default.

34 (B) Bonds or debentures issued by the Federal Home Loan  
 35 Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners'  
 36 Loan Act (12 U.S.C. 1461 through 1468).

37 (C) Interest-bearing obligations of the FSLIC Resolution Fund  
 38 and obligations of national mortgage associations issued under  
 39 the authority of the National Housing Act.

40 (D) Mortgages on real estate situated in Indiana which are  
 41 fully insured under Title 2 of the National Housing Act (12  
 42 U.S.C. 1707 through 1715z).

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- 1 (E) Obligations issued by farm credit banks and banks for  
 2 cooperatives under the Farm Credit Act of 1971 (12 U.S.C.  
 3 2001 through 2279aa-14).
- 4 (F) In savings and loan associations, other credit unions that  
 5 are insured under IC 28-7-1-31.5 and certificates of  
 6 indebtedness or investment of an industrial loan and  
 7 investment company if the association or company is federally  
 8 insured. Not more than twenty percent (20%) of the assets of  
 9 a credit union may be invested in the shares or certificates of  
 10 an association or company; nor more than forty percent (40%)  
 11 in all such associations and companies.
- 12 (G) Corporate credit unions.
- 13 (H) Federal funds or similar types of daily funds transactions  
 14 with other financial institutions.
- 15 (I) Mutual funds created and controlled by credit unions, credit  
 16 union associations, or their subsidiaries. Mutual funds referred  
 17 to in this clause may invest only in instruments that are  
 18 approved for credit union purchase under this chapter.
- 19 (J) Shares, stocks, or obligations of any credit union service  
 20 organization (as defined in Section 712 of the Rules and  
 21 Regulations of the National Credit Union Administration) with  
 22 the approval of the department. Not more than five percent  
 23 (5%) of the total paid in and unimpaired capital of the credit  
 24 union may be invested under this clause.
- 25 (5) To deposit its funds into:
- 26 (A) depository institutions that are federally insured; or  
 27 (B) state chartered credit unions that are privately insured by  
 28 an insurer approved by the department.
- 29 (6) To purchase, hold, own, or convey real estate as may be  
 30 conveyed to the credit union in satisfaction of debts previously  
 31 contracted or in exchange for real estate conveyed to the credit  
 32 union.
- 33 (7) To own, hold, or convey real estate as may be purchased by  
 34 the credit union upon judgment in its favor or decrees of  
 35 foreclosure upon mortgages.
- 36 (8) To issue shares of stock and upon the terms, conditions,  
 37 limitations, and restrictions and with the relative rights as may be  
 38 stated in the bylaws of the credit union, but no stock may have  
 39 preference or priority over the other to share in the assets of the  
 40 credit union upon liquidation or dissolution or for the payment of  
 41 dividends except as to the amount of the dividends and the time  
 42 for the payment of the dividends as provided in the bylaws.

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- 1 (9) To charge the member's share account for the actual cost of  
2 necessary locator service when the member has failed to keep the  
3 credit union informed about the member's current address. The  
4 charge shall be made only for amounts paid to a person or concern  
5 normally engaged in providing such service, and shall be made  
6 against the account or accounts of any one (1) member not more  
7 than once in any twelve (12) month period.
- 8 (10) To transfer to an accounts payable, a dormant account, or a  
9 special account share accounts which have been inactive, except  
10 for dividend credits, for a period of two (2) years. The credit  
11 union shall not consider the payment of dividends on the  
12 transferred account.
- 13 (11) To invest in fixed assets with the funds of the credit union.  
14 An investment in fixed assets in excess of five percent (5%) of its  
15 assets is subject to the approval of the department.
- 16 (12) To establish branch offices, upon approval of the department,  
17 provided that all books of account shall be maintained at the  
18 principal office.
- 19 (13) To pay an interest refund on loans proportionate to the  
20 interest paid during the dividend period by borrowers who are  
21 members at the end of the dividend period.
- 22 (14) To purchase life savings and loan protection insurance for  
23 the benefit of the credit union and its members, if:
- 24 (A) the coverage is placed with an insurance company licensed  
25 to do business in Indiana; and
- 26 (B) no officer, director, or employee of the credit union  
27 personally benefits, directly or indirectly, from the sale or  
28 purchase of the coverage.
- 29 (15) To sell and cash negotiable checks, travelers checks, and  
30 money orders for members.
- 31 (16) To purchase members' notes from any liquidating credit  
32 union, with written approval from the department, at prices agreed  
33 upon by the boards of directors of both the liquidating and the  
34 purchasing credit unions. However, the aggregate of the unpaid  
35 balances of all notes of liquidating credit unions purchased by any  
36 one (1) credit union shall not exceed ten percent (10%) of its  
37 unimpaired capital and surplus unless special written  
38 authorization has been granted by the department.
- 39 (17) To exercise such incidental powers necessary or requisite to  
40 enable it to carry on effectively the business for which it is  
41 incorporated.
- 42 (18) To act as a custodian or trustee of any trust created or

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1 organized in the United States and forming part of a stock bonus,  
 2 pension, or profit sharing plan which qualifies or qualified for  
 3 specific tax treatment under Section 408(a) or Section 401(d) of  
 4 the Internal Revenue Code, if the funds of the trust are invested  
 5 only in share accounts or insured certificates of the credit union.

6 (19) To issue shares of its capital stock or insured certificates to  
 7 a trustee or custodian of a pension plan, profit sharing plan, or  
 8 stock bonus plan which qualifies for specific tax treatment under  
 9 Sections 401(d) or 408(a) of the Internal Revenue Code.

10 (20) A credit union may exercise any rights and privileges that  
 11 are:

12 (A) granted to federal credit unions; but

13 (B) not authorized for credit unions under the Indiana Code  
 14 (except for this section) or any rule adopted under the Indiana  
 15 Code;

16 if the credit union complies with section 9.2 of this chapter.

17 (21) To sell, pledge, or discount any of its assets. ~~to purchase all~~  
 18 ~~or part of the assets of another credit union, and to assume the~~  
 19 ~~liabilities of the selling credit union.~~ However, a credit union may  
 20 not pledge any of its assets as security for the safekeeping and  
 21 prompt payment of any money deposited, except that a credit  
 22 union may, for the safekeeping and prompt payment of money  
 23 deposited, give security as authorized by federal law.

24 **(22) To purchase assets of another credit union and to assume**  
 25 **the liabilities of the selling credit union.**

26 **(23)** To act as a fiscal agent of the United States and to receive  
 27 deposits from nonmember units of the federal, state, or county  
 28 governments, from political subdivisions, and from other credit  
 29 unions upon which the credit union may pay varying interest rates  
 30 at varying maturities subject to terms, rates, and conditions that  
 31 are established by the board of directors. However, the total  
 32 amount of public funds received from units of state and county  
 33 governments and political subdivisions that a credit union may  
 34 have on deposit may not exceed ten percent (10%) of the total  
 35 assets of that credit union, excluding those public funds.

36 ~~(23)~~ **(24)** To join the National Credit Union Administration  
 37 Central Liquidity Facility.

38 ~~(24)~~ **(25)** To participate in community investment initiatives  
 39 under the administration of organizations:

40 (A) exempt from taxation under Section 501(c)(3) of the  
 41 Internal Revenue Code; and

42 (B) located or conducting activities in communities in which

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the credit union does business.  
Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

~~(25)~~ **(26)** To establish and operate an automated teller machine (ATM):

- (A) at any location within Indiana; or
- (B) as permitted by the laws of the state in which the automated teller machine is to be located.

~~(26)~~ **(27)** To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

- (A) reasonable compensation, or compensation as fixed by agreement of the parties;
- (B) all advances necessarily paid out and expended in the discharge and performance of its duties; and
- (C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

~~(27)~~ **(28)** Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

SECTION 10. IC 28-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In this chapter, unless the context otherwise requires:

"Pawnbroker" means any person, partnership, association, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness.

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event

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1 "pledger" means the disclosed principal.  
 2 "Department" means the department of financial institutions.  
 3 "Person" means an individual, a firm, an association, a limited  
 4 liability company, a partnership, a joint stock association, a trust, or a  
 5 corporation.

6 **"Month" means a period extending from a given date in one (1)**  
 7 **calendar month to the like date in the succeeding calendar month**  
 8 **or, if there is no such like date, then to the last day of the**  
 9 **succeeding calendar month. For purposes of this chapter, each**  
 10 **month is considered to have thirty (30) days.**

11 SECTION 11. IC 28-7-5-28 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The maximum  
 13 rate of interest charged by pawnbrokers shall be the same as the  
 14 maximum loan finance charge for supervised lenders under  
 15 IC 24-4.5-3-508(2). **For purposes of this subsection:**

- 16 **(1) the term of a loan commences on the date on which the**
- 17 **loan is made;**
- 18 **(2) differences in lengths of months are disregarded; and**
- 19 **(3) each day is counted as one-thirtieth (1/30) of a month.**

20 **The minimum term of a loan made by a pawnbroker is one (1)**  
 21 **month.** However, on loans paid in full within the first month, the  
 22 pawnbroker may charge one (1) month's interest.

23 (b) Interest shall not be deducted in advance, neither shall the  
 24 pawnbroker induce or permit any borrower to split up or divide any  
 25 loan or loans for the purpose of evading any provisions of this chapter.

26 (c) If a pawnbroker charges or receives interest in excess of that  
 27 provided in this section, or makes any charges not authorized by this  
 28 chapter, the pawnbroker shall forfeit principal and interest and return  
 29 the pledge upon demand of the pledger and surrender of the pawn  
 30 ticket without the principal or interest. If such excessive or  
 31 unauthorized charges have been paid by the pledger, the pledger may  
 32 recover the same, including the principal if paid, in a civil action  
 33 against the pawnbroker.

34 SECTION 12. IC 28-7-5-28.5, AS AMENDED BY P.L.163-2001,  
 35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2003]: Sec. 28.5. (a) Except as provided in subsection (b), in  
 37 addition to the loan finance charge authorized by section 28 of this  
 38 chapter, a pawnbroker may charge, contract for, and receive a fee not  
 39 to exceed one-fifth (1/5) of the principal amount of the loan per month  
 40 or any fractional part of a month for servicing the pledge that may  
 41 include investigating the title, storing, providing security, appraisal,  
 42 handling, making daily reports to local law enforcement officers, and

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1 for other expenses and costs associated with servicing the pledge. The  
 2 fee for each month after the second month of the loan transaction is  
 3 limited to one-thirtieth (1/30) of the monthly fee for each day the loan  
 4 is outstanding. Such a charge when made and collected is not interest  
 5 and is not a rate under IC 35-45-7-1.

6 (b) If a loan is renewed or extended, the monthly fee authorized by  
 7 subsection (a) accrues at a rate of one-thirtieth (1/30) of the monthly  
 8 fee each day:

9 (1) beginning ~~sixty (60) days~~ **upon the expiration of two (2)**  
 10 **months** after the original date of the loan; and

11 (2) continuing through and including the day a pledger redeems  
 12 the pledge.

13 SECTION 13. IC 28-7-5-30, AS AMENDED BY P.L.163-2001,  
 14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2003]: Sec. 30. ~~After~~ **Upon** the expiration of ~~sixty (60) days~~  
 16 **two (2) months** from the maturity of the loan, a pawned article  
 17 becomes the property of the pawnbroker and **is** subject to sale.

18 SECTION 14. IC 28-7-5-35 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. If more than one (1)  
 20 person shall claim the right to redeem a pledge, the pawnbroker shall  
 21 incur no liability for refusing to deliver the pledge until the respective  
 22 rights of the claimants shall have been adjudicated. If no action be  
 23 brought against the pawnbroker by either party within the period for  
 24 which the pawnbroker is required under section 30 of this chapter to  
 25 hold the pledge, or within ~~thirty (30) days~~ **one (1) month** after notice  
 26 of an adverse claim, the pawnbroker may proceed to sell the pledge  
 27 subject to adjudication of the parties' rights.

28 SECTION 15. IC 28-8-4-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter does  
 30 not apply to the following:

31 (1) The United States or an instrumentality of the United States.

32 (2) The state, a political subdivision of the state, or an  
 33 instrumentality of the state or of a political subdivision of the  
 34 state.

35 (3) A bank, a bank holding company, an industrial loan and  
 36 investment company, a credit union, a savings association, a  
 37 savings bank, a mutual bank, or a mutual savings bank organized  
 38 under the laws of any state or the United States.

39 (b) Unless otherwise provided in this chapter, this chapter does not  
 40 apply to an authorized delegate of a person:

41 (1) licensed under this chapter **or excluded under subsection**  
 42 **(a);** and

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1 (2) acting within the scope of authority conferred by a written  
2 contract conforming to the requirements of section 49 of this  
3 chapter.

4 SECTION 16. IC 28-10-1-1, AS AMENDED BY P.L.82-2002,  
5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2003]: Sec. 1. A reference to a federal law or federal  
7 regulation in IC 28 is a reference to the law or regulation in effect  
8 January 1, ~~2002~~ 2003.

9 SECTION 17. IC 28-11-4-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the director  
11 determines that ~~(1)~~ a director, ~~or~~ an officer, **or an employee** of a  
12 financial institution has:

13 ~~(A)~~ **(1)** committed a violation of a statute, a rule, ~~or~~ a final cease  
14 and desist order, **any condition imposed in writing by the**  
15 **director in connection with the grant of any application or**  
16 **other request by the financial institution, or any written**  
17 **agreement between the financial institution and the director;**  
18 ~~(B)~~ **(2)** engaged or participated in an unsafe or unsound practice  
19 in connection with the financial institution;

20 ~~(C)~~ **(3)** committed or engaged in an act, an omission, or a practice  
21 that constitutes a breach of fiduciary duty as director, ~~or~~ officer,  
22 **or employee;** or

23 ~~(D)~~ **(4)** been charged in a complaint, an indictment, or an  
24 information with the commission of or participation in a crime  
25 involving dishonesty or breach of trust that is punishable by  
26 imprisonment for a term exceeding one (1) year under federal law  
27 or the law of a state; ~~and~~  
28 ~~(2) either:~~

29 **the director, subject to subsection (b), may issue and serve upon**  
30 **the officer, director, or employee a notice of the director's intent to**  
31 **issue an order removing the person from the person's office or**  
32 **employment, or an order prohibiting any participation by the**  
33 **person in the conduct of the affairs of any financial institution, or**  
34 **an order both removing the person and prohibiting the person's**  
35 **participation.**

36 **(b) A violation, practice, or breach specified in subdivision (a)**  
37 **is subject to the authority of the director under subsection (a) if the**  
38 **director finds both of the following:**

- 39 **(1) By reason of the violation, practice, or breach:**  
40 (A) the financial institution has suffered or will probably  
41 suffer substantial financial loss or other damage; or  
42 (B) the interests of the financial institution's depositors could

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1 be seriously prejudiced by reason of the violation, practice, or  
 2 breach of fiduciary duty.  
 3 the director may issue and serve upon the director or the officer a  
 4 notice of charges of the practice, violation, or act.

5 (b)  
 6 (2) **The violation, practice, or breach:**  
 7 (A) **involves personal dishonesty on the part of the officer,**  
 8 **director, or employee; or**  
 9 (B) **demonstrates a willful or continuing disregard by the**  
 10 **officer, director, or employee for the safety and soundness**  
 11 **of the financial institution.**

12 (c) person convicted of a:  
 13 (1) felony; or  
 14 (2) crime involving dishonesty or breach of trust;  
 15 may not serve as a director, an officer, or an employee of a financial  
 16 institution, or serve in any similar capacity, unless the person obtains  
 17 the written consent of the department.

18 (e) (d) A financial institution that willfully permits a person to serve  
 19 the financial institution in violation of subsection (b) or (c) is subject  
 20 to a civil penalty of five hundred dollars (\$500) for each day the  
 21 violation continues. A civil penalty paid under this subsection must be  
 22 deposited into the financial institutions fund established by  
 23 IC 28-11-2-9.

24 SECTION 18. IC 28-11-4-4 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued  
 26 under this chapter must: ~~do the following:~~

27 (1) contain a statement of the facts constituting the alleged  
 28 practice, violation, or ~~act.~~  
 29 (2) ~~Fix a time and place at which a hearing will be held by the~~  
 30 ~~department to determine whether a final order under section 7 of~~  
 31 ~~this chapter should be issued.~~

32 (b) ~~The hearing shall be fixed for a date:~~  
 33 (1) ~~not earlier than thirty (30) days; and~~  
 34 (2) ~~not later than one hundred twenty (120) days;~~  
 35 ~~after service of the notice. However, at the request of the party to whom~~  
 36 ~~the notice is issued, the department may fix the hearing for a date~~  
 37 ~~specified in the request. **breach;**~~

38 (2) **state the facts alleged in support of the violation, practice,**  
 39 **or breach;**  
 40 (3) **state the director's intention to enter an order under**  
 41 **section 3(a) of this chapter;**  
 42 (4) **be delivered to the board of directors of the financial**

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institution;

(5) be delivered to the officer, director, or employee concerned; and

(6) specify the procedures that must be followed to initiate a hearing to contest the facts alleged.

(b) If a hearing is requested within ten (10) days after service of the written notice, the director or designee of the director shall hold a hearing concerning the alleged practice, violation, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The director or designee of the director, based on the evidence presented at the hearing, shall enter:

(1) a final order under section 7 of this chapter for the immediate removal of the officer, director, or employee affected;

(2) a final order under section 7 of this chapter prohibiting further participation by the officer, director, or employee, in any manner, in the conduct of affairs of any financial institution;

(3) a final order consisting of both an order described in subdivision (1) and an order described in subdivision (2);

(4) a reprimand of the individuals, entities, or other persons concerned; or

(5) a dismissal of the entire matter.

(c) If no hearing is requested within the time specified in subsection (b), the director may proceed to issue a final order described in subsection (b)(1), (b)(2), or (b)(3) on the basis of the facts set forth in the written notice.

(d) An officer, director, or employee who is removed from a position under a removal order that has become final may not participate in the conduct of the affairs of any financial institution without the approval of the director.

(e) The director may, for the protection of the financial institution or the interests of its depositors, suspend from office or prohibit from participation in the affairs of the financial institution an officer, a director, or an employee of a financial institution who is the subject of a written notice served by the director under subsection (a). A suspension or prohibition under this subsection becomes effective upon service of the notice. Unless stayed by a court in a proceeding authorized by subsection (f), the notice shall remain in effect pending completion of the proceeding under the written notice served under subsection (a) and until the effective

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1 **date of an order entered by the director under subsection (b) or (c).**  
2 **Copies of the notice shall also be served upon the financial**  
3 **institution or subsidiary of which the person is an officer, a**  
4 **director, or an employee.**

5 **(f) Not more than ten (10) days after an officer, a director, or an**  
6 **employee has been suspended from office or prohibited from**  
7 **participation in the conduct of the affairs of the financial**  
8 **institution or subsidiary under subsection (e), the officer, director,**  
9 **or employee may apply to a court having jurisdiction for a stay of**  
10 **the suspension or prohibition pending completion of the**  
11 **proceedings under subsection (b), and the court may stay the**  
12 **suspension of prohibition.**

13 **(e) (g) The department shall maintain an official record of a**  
14 **proceeding under this chapter.**

15 SECTION 19. IC 28-11-4-5 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If the department  
17 enters into a consent to a final order under section 7 of this chapter with  
18 a financial institution, director, ~~or~~ officer, **or employee**, the director is  
19 not required to issue and serve a notice of charges upon the financial  
20 institution, director, or officer under section 2 or 3 of this chapter. A  
21 consent agreement may be negotiated and entered into before or after  
22 the issuance of a notice of charges.

23 SECTION 20. IC 28-11-4-6 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If the department  
25 determines that an alleged practice, a violation, or an act specified in  
26 a notice served under this chapter is likely to:

- 27 (1) cause insolvency of the financial institution;
- 28 (2) cause substantial dissipation of assets or earnings of the
- 29 financial institution; or
- 30 (3) otherwise seriously prejudice the interests of the depositors of
- 31 the financial institution;

32 the department may issue a temporary order without a hearing.

- 33 (b) A temporary order may
- 34 ~~(1)~~ require the financial institution to cease and desist from the
- 35 practice or violation. ~~or~~
- 36 ~~(2) temporarily remove a director or an officer of the financial~~
- 37 ~~institution.~~

38 (c) A temporary order is effective upon service and remains  
39 effective and enforceable until the earliest of the following:

- 40 (1) The issuance of an injunction by a court under subsection (d).
- 41 (2) The dismissal of the charges by the department.
- 42 (3) The effective date of a final order under section 7 of this

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chapter.  
(d) A financial institution a ~~director, or an officer~~ served with a temporary order under this section may apply to a court having jurisdiction for an injunction to stay, modify, or vacate the order.

SECTION 21. IC 28-11-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) ~~If upon the record made at a hearing under this chapter~~ the department finds that the conditions specified in section 2 or 3 of this chapter have been established, the department may issue a final order.

(b) A final order must include separately stated findings of fact **and conclusions of law** for all aspects of the order. ~~including any remedy under subsection (c). Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings.~~

- (c) A final order may do any of the following:
  - (1) Require the financial institution and its directors, officers, employees, and agents to do any of the following:
    - (A) Cease and desist from the practice or violation.
    - (B) Take affirmative action to correct the conditions resulting from the practice or violation.
  - (2) ~~Permanently remove~~ **Suspend or prohibit** a director, ~~or an officer, or an employee from participating in the affairs of a financial institution or subsidiary.~~
  - (3) Impose a civil penalty not to exceed the amount specified in section 9 of this chapter.

(d) A final order shall be issued in writing within ninety (90) days after conclusion of the hearing, unless this period is waived or extended with the written consent of all parties or for good cause shown. **A final order issued under this chapter may be made public by the department.**

(e) If the financial institution, director, or officer does not appear individually or by a duly authorized representative at the hearing, the financial institution, director, or officer is considered to have consented to the issuance of a final order.

SECTION 22. IC 28-12-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies only to a corporation that is any of the following:

- (1) A bank and trust company.
- (2) A bank.
- (3) A stock savings bank.

(b) The department shall determine the minimum amount of the capital ~~stock~~ of a corporation organized or reorganized under this title

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1 after giving consideration to the potential deposit liability to be  
2 anticipated in the case of a proposed new corporation, or the existing  
3 deposit liability of a corporation to be reorganized.

4 SECTION 23. IC 28-13-4-4 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A ~~bank, trust~~  
6 ~~company, or corporate fiduciary~~ **corporation** may not, during the time  
7 it continues in business as such, withdraw or authorize or permit to be  
8 withdrawn any portion of the capital stock in the form of dividends or  
9 otherwise.

10 SECTION 24. IC 28-13-4-5 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A ~~bank, trust~~  
12 ~~company, or corporate fiduciary~~ **corporation** may not declare or pay  
13 any dividends to its shareholders in any form if, by the payment of the  
14 dividends, its capital stock will be thereby impaired.

15 (b) A ~~bank, trust company, or corporate fiduciary~~ **corporation** may  
16 never pay a dividend in an amount greater than the remainder of  
17 undivided profits then on hand after deducting losses, bad debts, or  
18 depreciation that the department may have determined, and all other  
19 expenses.

20 (c) **A corporation must obtain department approval before**  
21 **reducing the corporation's capital stock, capital surplus, or**  
22 **preferred stock.**

23 SECTION 25. IC 28-13-4-6 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. All debts due to a  
25 ~~bank, trust company, or corporate fiduciary~~ **corporation** on which  
26 interest is past due for a period of six (6) months are bad debts unless,  
27 in the opinion of the department, the debts are well secured.

28 SECTION 26. IC 28-13-4-7 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The department  
30 may, if the department considers it necessary for the protection of the  
31 depositors, require any bank or trust **company, savings bank, or**  
32 **savings association** to increase the sound capital or to reduce the  
33 amount of the deposits of the bank or trust **company, savings bank, or**  
34 **savings association**. The department shall, in arriving at a decision  
35 whether to order a bank or trust **company, savings bank, or savings**  
36 **association** to increase the sound capital or reduce the amount of the  
37 deposits for the protection of **the depositors of** the bank or trust  
38 ~~company's depositors, company, savings bank, or savings~~  
39 **association**, take into consideration the following:

- 40 (1) Quality of management.
- 41 (2) Liquidity of assets.
- 42 (3) History of earnings and the retention of earnings.



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- 1 (4) Quality and character of ownership.
- 2 (5) Burden of occupancy expenses.
- 3 (6) Potential volatility of deposit structure.
- 4 (7) Quality of operating procedures.
- 5 (8) Capacity to meet present and future needs of the area served,
- 6 considering its competition.

7 (b) If the department determines that an increase in the sound  
 8 capital or decrease in the deposits is necessary, the department shall  
 9 enter an order fixing the amount of the increase or decrease. The order  
 10 shall be complied with within the time period fixed by the order.

11 (c) The department may require a corporate fiduciary to increase its  
 12 capital. In deciding whether to order a corporate fiduciary to increase  
 13 its capital, the department shall take into consideration the following:

- 14 (1) Quality of management.
- 15 (2) Liquidity of assets.
- 16 (3) History of earnings and the retention of earnings.
- 17 (4) Quality and character of ownership.
- 18 (5) Burden of occupancy expenses.
- 19 (6) Quality of operating procedures.
- 20 (7) Ability to administer fiduciary accounts in a prudent manner  
 21 consistent with applicable laws or regulations.

22 (d) If the department determines that an increase in capital is  
 23 necessary, the department shall enter an order fixing the amount of the  
 24 increase. The order must be complied with within the period fixed by  
 25 the order.

26 SECTION 27. IC 28-13-16-4, AS ADDED BY P.L.215-1999,  
 27 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2003]: Sec. 4. (a) A financial institution **or any of its**  
 29 **subsidiaries** may acquire or establish a qualifying subsidiary by  
 30 providing the department with written notice before acquiring or  
 31 establishing the subsidiary. The department shall notify the requesting  
 32 financial institution of the department's receipt of the notice.

33 (b) A subsidiary may exercise a power or engage in an activity  
 34 permitted to be performed by a financial institution under the same  
 35 conditions and restrictions as if the power or activity is performed by  
 36 the financial institution itself, or the activity has been authorized by 12  
 37 CFR 5.34(e)(2)(ii).

38 (c) The qualified subsidiary may exercise or engage in the activity  
 39 thirty (30) days after the date on which the department receives the  
 40 notification unless otherwise notified by the department.

41 SECTION 28. IC 28-15-2-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Savings associations

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- 1 may do the following:
- 2 (1) Accept deposit accounts.
- 3 (2) Issue evidence of deposit account ownership.
- 4 (3) Declare and distribute earnings to members.
- 5 (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- 6 (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and
- 7 12 CFR 32:
- 8 (A) Make loans to members on the security of deposit
- 9 accounts.
- 10 (B) Make property improvement loans.
- 11 (C) Make other loans as provided under IC 28-15-8.
- 12 (D) Make mortgage loans.
- 13 (E) Accept additional collateral on mortgage loans.
- 14 (F) Purchase and sell loans.
- 15 (G) Negotiate loan servicing agreements.
- 16 (H) Purchase and sell participating interests in loans.
- 17 (I) Issue letters of credit with specific expiration dates.
- 18 (J) Make secured or unsecured loans, which are partially
- 19 insured or guaranteed in any manner by any state of the United
- 20 States, the United States government, or any of its agencies or
- 21 government sponsored enterprises.
- 22 (K) Purchase commercial paper that is denominated in United
- 23 States currency and rated by at least one (1) nationally
- 24 recognized investment rating service in one (1) of the two (2)
- 25 highest grades.
- 26 (L) Make, purchase, or participate in alternative mortgage
- 27 loans as provided in IC 28-15-11.
- 28 (6) Acquire and sell real estate in satisfaction of debts previously
- 29 contracted.
- 30 (7) Acquire real estate for the convenient transaction of its
- 31 business. A savings association has the same powers under this
- 32 subdivision as a bank or trust company has under IC 28-1-11-5.
- 33 (8) Notwithstanding any other law, establish, maintain, or relocate
- 34 one (1) or more branch offices by following the provisions of
- 35 IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association
- 36 were a bank.
- 37 (9) Become a member in any agency or instrumentality of the
- 38 federal government. For the purposes of this subdivision,
- 39 membership in an agency or instrumentality of the federal
- 40 government may include:
- 41 (A) purchasing stock;
- 42 (B) purchasing notes and debentures; or

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- (C) borrowing money.
- (10) Subject to any limitations imposed by the department through policy:**
  - (A) invest the money deposited in the savings association in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States;**
  - (B) become a member of the federal home loan bank of the district in which Indiana is located or an adjoining district;**
  - (C) borrow money from:**
    - (i) a federal home loan bank described in clause (B);**
    - (ii) the Federal Deposit Insurance Corporation; or**
    - (iii) any other corporation;**
  - (D) transfer, assign to, and pledge with a federal home loan bank described in clause (B), the Federal Deposit Insurance Corporation, or any other corporation, any of the bonds, notes, contracts, mortgages, securities, or other property of the savings association held or acquired as security for the payment of loans entered into under clause (C); and**
  - (E) exercise all rights, powers, and privileges conferred upon, and do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).**
- (11) Subject to the provisions and restrictions of 12 U.S.C. 24 and 12 CFR 1, invest in the following types of securities:**
  - (A) Bonds, notes, certificates, and other valid obligations of the United States government or any agency of the United States government.
  - (B) Accounts offered by federally insured banks, savings banks, and savings associations.
  - (C) Bonds, notes, or other evidences of indebtedness that are general obligations supported by the full faith and credit of any state in the United States or any city, town, or other political subdivision in any state in the United States if the obligations have been assigned one (1) of the four (4) highest grades by a nationally recognized investment rating service.
  - (D) Shares of stock of a subsidiary that does not exercise a power or engage in any activity that is not authorized for the savings association. The investment power granted by this subdivision is separate from the investment power granted by

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- 1 IC 28-15-9.
- 2 (E) Corporate debt securities that are denominated in United
- 3 States currency and rated by at least one (1) nationally
- 4 recognized investment rating service in one (1) of the four (4)
- 5 highest grades. Corporate debt securities in which a savings
- 6 association invests under this clause must be convertible into
- 7 stock at the sole option of the holder, and a savings association
- 8 is prohibited from exercising the conversion option.
- 9 (F) Shares of open end investment companies that are eligible
- 10 for purchase by national banks.
- 11 (G) Bankers' acceptances that are eligible for purchase by
- 12 national banks.
- 13 ~~(H)~~ **(12)** For the purpose of:
- 14 (A) check and deposit sorting and posting;
- 15 (B) computation and posting of interest and other credits and
- 16 charges;
- 17 (C) preparation and mailing of checks, statements, notices, and
- 18 similar items; or
- 19 (D) other clerical, bookkeeping, accounting, statistical, or
- 20 similar functions performed by a savings association;
- 21 invest in a corporation organized in any state to perform those
- 22 functions for two (2) or more savings associations, each of which
- 23 owns a portion of the capital stock of the corporation. The total
- 24 investment of a savings association under this subdivision may
- 25 not exceed ten percent (10%) of the capital and surplus of the
- 26 savings association. A savings association may not invest in this
- 27 type of corporation unless the corporation furnishes assurances to
- 28 the department that it will subject itself to examination by the
- 29 department to the same extent as if the services were performed
- 30 by the savings association.
- 31 ~~(I)~~ **(13)** Lend money to other savings associations:
- 32 (A) the deposits of which are insured by the Federal Deposit
- 33 Insurance Corporation; and
- 34 (B) that are incorporated and operating under the laws of any
- 35 state or of the United States.
- 36 ~~(J)~~ **(14)** Borrow money and mortgage or pledge its property to
- 37 secure payment.
- 38 ~~(K)~~ **(15)** Issue subordinated notes or debentures.
- 39 ~~(L)~~ **(16)** Assess and collect interest, fees, and other charges.
- 40 ~~(M)~~ **(17)** Insure its deposit accounts with the Federal Deposit
- 41 Insurance Corporation or its successor.
- 42 ~~(N)~~ **(18)** Act as an agent for the United States or its

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1 instrumentalities.  
 2 ~~(18)~~ **(19)** Accept property for safe keeping or escrow.  
 3 ~~(19)~~ **(20)** Rent or lease safe deposit boxes.  
 4 ~~(20)~~ **(21)** Issue and sell checks, drafts, money orders, and other  
 5 instruments for the transmission or payment of money.  
 6 ~~(21)~~ **(22)** Exercise all the powers that:  
 7 (A) are incidental and proper; or  
 8 (B) may be necessary and usual;  
 9 in carrying on the business of the savings association.  
 10 ~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the  
 11 buildings, and lease the buildings for public purposes to  
 12 municipal corporations or other public authorities that have  
 13 resources sufficient to make payment of all rentals as they become  
 14 due. Each lease agreement entered into under this subdivision  
 15 must provide that, upon expiration, the lessee will become the  
 16 owner of the building.  
 17 ~~(23)~~ **(24)** Open or establish automated teller machines at any  
 18 location. An automated teller machine opened or established  
 19 under this subdivision may be owned and operated individually  
 20 or jointly on a cost sharing or fee basis.  
 21 ~~(24)~~ **(25)** Act:  
 22 (A) in any fiduciary capacity in which a bank or trust company  
 23 is permitted to act under this title; and  
 24 (B) as an agent for the sale of real estate, without bond or other  
 25 security.  
 26 ~~(25)~~ **(26)** Accept and maintain demand deposit accounts if the  
 27 savings association is insured by the Federal Deposit Insurance  
 28 Corporation or its successor.  
 29 ~~(26)~~ **(27)** Without the approval of the department, to the extent  
 30 authorized by the board of directors of the savings association,  
 31 establish or maintain agencies that:  
 32 (A) only service and originate, but do not approve, loans and  
 33 contracts; or  
 34 (B) manage or sell real estate owned by the savings  
 35 association.  
 36 An agency established or maintained under this subdivision may  
 37 offer any services not referred to in this subdivision with the  
 38 approval of the department, except for accepting payment on  
 39 savings accounts. An agency shall maintain records of all  
 40 business it transacts and transmit copies to a branch or home  
 41 office of the savings association.  
 42 SECTION 29. IC 28-15-16 IS ADDED TO THE INDIANA CODE

COPY





1 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2003]:

3 **Chapter 16. Applicability of the Federal Reserve Act**

4 **Sec. 1. For purposes of this article, a savings association that is**  
5 **not a member of the Federal Reserve System is subject to Sections**  
6 **23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1)**  
7 **to the same extent and in the same manner as if the savings**  
8 **association were a member of the Federal Reserve System.**

9 **Sec. 2. A violation of Section 23A or 23B of the Federal Reserve**  
10 **Act (12 U.S.C. 371c or 371c-1), by a savings association or a**  
11 **subsidiary constitutes a violation of this section.**

12 **SECTION 30. [EFFECTIVE UPON PASSAGE] This act does not**  
13 **affect:**

- 14 **(1) rights or liabilities accrued;**
- 15 **(2) penalties incurred;**
- 16 **(3) crimes committed; or**
- 17 **(4) proceedings begun;**

18 **before the effective date of this act. Those rights, liabilities,**  
19 **penalties, crimes, and proceedings continue and shall be imposed**  
20 **under prior law as if this act had not been enacted.**

21 **SECTION 31. An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1834, 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:

Page 5, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 7. IC 28-6.1-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **Subject to any limitations imposed by the department through policy, a** savings bank may do any of the following:

- (1) Invest the money deposited in the savings bank in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States.
- (2) Become a member of the federal home loan bank of this or an adjoining district.
- (3) Borrow money from:
  - (A) a bank described in subdivision (2);
  - (B) the Federal Deposit Insurance Corporation; or
  - (C) any other corporation.
- (4) Transfer, assign to, and pledge with a bank described in subdivision (2), the Federal Deposit Insurance Corporation, or other corporation, any of the bonds, notes, contracts, mortgages, securities, or other property of the savings bank held or acquired, as security for the payment of loans entered into under subdivision (3).
- (5) Exercise all rights, powers, and privileges conferred upon, and to do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449)."

Page 14, line 27, delete "public".

Page 15, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 19. IC 28-11-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If the department enters into a consent to a final order under section 7 of this chapter with a financial institution, director, ~~or~~ officer, **or employee**, the director is not required to issue and serve a notice of charges upon the financial institution, director, or officer under section 2 or 3 of this chapter. A consent agreement may be negotiated and entered into before or after the issuance of a notice of charges.

SECTION 20. IC 28-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If the department determines that an alleged practice, a violation, or an act specified in

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a notice served under this chapter is likely to:

- (1) cause insolvency of the financial institution;
- (2) cause substantial dissipation of assets or earnings of the financial institution; or
- (3) otherwise seriously prejudice the interests of the depositors of the financial institution;

the department may issue a temporary order without a hearing.

(b) A temporary order may

- (1) require the financial institution to cease and desist from the practice or violation. ~~or~~
- (2) temporarily remove a director or an officer of the financial institution.

(c) A temporary order is effective upon service and remains effective and enforceable until the earliest of the following:

- (1) The issuance of an injunction by a court under subsection (d).
- (2) The dismissal of the charges by the department.
- (3) The effective date of a final order under section 7 of this chapter.

(d) A financial institution a ~~director, or an officer~~ served with a temporary order under this section may apply to a court having jurisdiction for an injunction to stay, modify, or vacate the order."

Page 16, line 15, after "cause shown." insert "**A final order issued under this chapter may be made public by the department.**"

Page 17, line 16, delete "company" and insert "**company, savings bank, or savings association**".

Page 17, line 18, delete "company or savings bank." and insert "**company, savings bank, or savings association.**".

Page 17, line 19, delete "company" and insert "**company, savings bank, or savings association**".

Page 17, line 20, after "protection of" insert "**the depositors of**".

Page 17, line 21, strike "company's depositors," and insert "**company, savings bank, or savings association,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1834 as introduced.)

BARDON, Chair

Committee Vote: yeas 11, nays 0.

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