

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1834**

Citations Affected: IC 24-4.5-7-401; IC 24-4.5-7-413; IC 28-1; IC 28-2-13-26; IC 28-6.1-20; IC 28-7-1-9; IC 28-7-5; IC 28-8-4-1; IC 28-8-4-47; IC 28-10-1-1; IC 28-11-4; IC 28-12-11-1; IC 28-13-16-4; IC 28-15-16.

Synopsis: Financial institutions. Conference committee report for EHB 1834. 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. Provides for the release of information to state and federal supervisory agencies, federal law enforcement agencies, and federal prosecutorial agencies or offices. Authorizes the department of financial institutions to remove officers, directors, and employees of financial institutions for certain practices, violations, and breaches. Allows the department to make certain final orders public. Requires department approval for reductions in capital stock, capital surplus, and preferred stock levels. Modifies provisions concerning the establishment of trust offices. 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. 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. **(This conference committee report provides for the release of information to state and federal supervisory agencies, federal law enforcement agencies, and federal prosecutorial agencies or offices.)**

Effective: Upon passage; July 1, 2003.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1834 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 24-4.5-1-102, AS AMENDED BY P.L.82-2002,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 102. Purposes; Rules of Construction(1) This
- 5 article shall be liberally construed and applied to promote its
- 6 underlying purposes and policies.
- 7 (2) The underlying purposes and policies of this article are:
- 8 (a) to simplify, clarify, and modernize the law governing retail
- 9 installment sales, consumer credit, small loans, and usury;
- 10 (b) to provide rate ceilings to assure an adequate supply of credit
- 11 to consumers;
- 12 (c) to further consumer understanding of the terms of credit
- 13 transactions and to foster competition among suppliers of
- 14 consumer credit so that consumers may obtain credit at reasonable
- 15 cost;
- 16 (d) to protect consumer buyers, lessees, and borrowers against
- 17 unfair practices by some suppliers of consumer credit, having due
- 18 regard for the interests of legitimate and scrupulous creditors;
- 19 (e) to permit and encourage the development of fair and

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

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

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

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

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

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

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

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

43 (b) The period for approval under subsection (a) may be extended:
 44 (1) in the discretion of the director for an additional thirty (30)
 45 days; and
 46 (2) not to exceed two (2) additional times for not more than
 47 forty-five (45) days each time if:

48 (A) the department determines that the corporation, individual,
 49 or individuals, who propose to acquire control have not
 50 submitted substantial evidence of the qualifications described in
 51 subsection (c);

- 1 (B) the department determines that any material information
 2 submitted is substantially inaccurate; or
 3 (C) the department has been unable to complete the investigation
 4 of the corporation, individual, or individuals, who propose to
 5 acquire control because of any delay caused by or the inadequate
 6 cooperation of the corporation, individual, or individuals.
- 7 (c) The department shall issue a notice approving the application
 8 only after it has become satisfied that both of the following apply:
- 9 (1) The corporation, individual, or individuals who propose to
 10 acquire control are qualified by competence, experience, character,
 11 and financial responsibility to control and operate the bank, trust
 12 company, stock savings bank, bank holding company, corporate
 13 fiduciary, or industrial loan and investment company in a legal and
 14 proper manner.
- 15 (2) The interests of the stockholders, depositors, and creditors of
 16 the bank, trust company, stock savings bank, bank holding
 17 company, corporate fiduciary, or industrial loan and investment
 18 company and the interests of the public generally will not be
 19 jeopardized by the proposed change in control.
- 20 (d) As used in this section, "~~bank~~ holding company" means any
 21 company (as defined in IC 28-2-15-5 before July 1, 1992, and as
 22 defined in IC 28-2-16-5 beginning July 1, 1992) that **directly or**
 23 **indirectly** controls one (1) or more state chartered ~~banks~~: **financial**
 24 **institutions**.
- 25 (e) As used in this section, "control" means the power directly or
 26 indirectly to:
- 27 (1) direct the management or policies of a bank, a trust company,
 28 a ~~bank~~ holding company, a corporate fiduciary, or an industrial
 29 loan and investment company; or
 30 (2) vote at least twenty-five percent (25%) of any class of voting
 31 securities of a bank, a trust company, a ~~bank~~ holding company, a
 32 corporate fiduciary, or an industrial loan and investment company.
- 33 (f) The president or other chief executive officer of a financial
 34 institution **or holding company** shall report to the director of the
 35 department any transfer or sale of shares of stock of the financial
 36 institution **or holding company** that results in direct or indirect
 37 ownership by a stockholder or an affiliated group of stockholders of at
 38 least ten percent (10%) of the outstanding stock of the financial
 39 institution **or holding company**. The report required by this section
 40 must be made not later than ten (10) days after the transfer of the shares
 41 of stock on the books of the financial institution **or holding company**.
- 42 SECTION 5. IC 28-1-11-12.5 IS ADDED TO THE INDIANA CODE
 43 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 44 1, 2003]: **Sec. 12.5. Subject to any limitations imposed by the**
 45 **department through policy, a bank or trust company may do any**
 46 **of the following:**
- 47 (1) **Invest the money deposited in the bank or trust company in**
 48 **the shares of the capital stock, bonds, debentures, notes, or**
 49 **other obligations of a federal home loan bank of the United**
 50 **States.**
- 51 (2) **Become a member of the federal home loan bank of the**

1 **district in which Indiana is located or an adjoining district.**

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

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

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

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

6 **(4) Transfer, assign to, and pledge with a federal home loan**
 7 **bank described in subdivision (2), the Federal Deposit**
 8 **Insurance Corporation, or other corporation any of the bonds,**
 9 **notes, contracts, mortgages, securities, or any other property**
 10 **of the bank or trust company held or acquired as security for**
 11 **the payment of loans entered into under subdivision (3).**

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

16 SECTION 6. IC 28-1-20-4, IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as
 18 provided in subsections (c), (d), (g), and (k), it is unlawful for any
 19 person, firm, limited liability company, or corporation (other than a
 20 bank or trust company, **bank holding company**, or corporate fiduciary
 21 organized or reorganized under IC 28 or statutes in effect at the time of
 22 organization or reorganization or under the laws of the United States):

23 (1) to use the word "bank", **banc, or banco** as a part of the name
 24 or title of the person, firm, or corporation; or

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

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

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

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

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

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

42 (1) the words "savings bank"; or

43 (2) the word "bank" if the name or title also includes either the
 44 words "savings bank" or letters "SB".

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

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

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

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

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

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

28 (j) A person, firm, limited liability company, or corporation who
29 violates this section is subject to a penalty of ~~two~~ **five** hundred dollars
30 ~~(\$200)~~ **(\$500)** per day for each and every day during which the
31 violation continues. The penalty imposed shall be recovered in the
32 name of the state on relation of the department and, when recovered,
33 shall be paid into the financial institutions fund established by
34 IC 28-11-2-9.

35 (k) The word "bank", **banc, or banco** may not be included in the
36 name of a corporate fiduciary.

37 **(l) A person, firm, limited liability company, or corporation may**
38 **not use the name of an existing bank or bank holding company or**
39 **a name confusingly similar to that of an existing bank or bank**
40 **holding company when marketing to or soliciting business from a**
41 **customer or prospective customer if the reference to the existing**
42 **bank or bank holding company is:**

43 **(1) without the consent of the existing bank or bank holding**
44 **company; and**

45 **(2) in a manner that could cause a reasonable person to believe**
46 **that the marketing material or solicitation:**

47 **(A) originated from;**

48 **(B) is endorsed by; or**

49 **(C) is in any other way the responsibility of;**

50 **the existing bank or bank holding company.**

51 **(m) An existing bank or bank holding company may, in addition**

1 to any other remedies available under the law, report an alleged
 2 violation of subsection (l) to the department. If the department
 3 finds that the marketing material or solicitation in question is in
 4 violation of subsection (l), the department may direct the person,
 5 firm, limited liability company, or corporation to cease and desist
 6 from using that marketing material or solicitation in Indiana. If
 7 that person, firm, limited liability company, or corporation persists
 8 in using the marketing material or solicitation, the department
 9 may impose a civil penalty of up to fifteen thousand dollars
 10 (\$15,000) for each violation. Each instance in which the marketing
 11 material or solicitation is sent to a customer or prospective
 12 customer constitutes a separate violation of subsection (l).

13 (n) Nothing in subsection (l) or (m) prohibits the use of or
 14 reference to the name of an existing bank or bank holding company
 15 in marketing materials or solicitations, if the use or reference does
 16 not deceive or confuse a reasonable person regarding whether the
 17 marketing material or solicitation:

18 (1) originated from;

19 (2) is endorsed by; or

20 (3) is in any other way the responsibility of;
 21 the existing bank or bank holding company.

22 (o) The department may adopt rules under IC 4-22-2 to
 23 implement this section.

24 SECTION 7. IC 28-2-13-26 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A bank, trust
 26 company, corporate fiduciary, or savings bank **organized under the**
 27 **laws of Indiana** may establish a trust office to exercise its powers as
 28 a fiduciary **to conduct business** in any location that is approved by the
 29 department. Before the department approves a trust office **to exercise**
 30 **powers as a fiduciary** under this subsection, it must determine to its
 31 satisfaction that the bank, trust company, corporate fiduciary, or
 32 savings bank will have adequate capital, sound management, and
 33 adequate future earnings prospects after the establishment of the trust
 34 office.

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

37 (1) receive deposits;

38 (2) pay checks; or

39 (3) lend money;

40 at the trust office.

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

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

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

50 (3) Borrow money from:

51 (A) a bank described in subdivision (2);

- 1 (B) the Federal Deposit Insurance Corporation; or
 2 (C) any other corporation.
 3 (4) Transfer, assign to, and pledge with a bank described in
 4 subdivision (2), the Federal Deposit Insurance Corporation, or
 5 other corporation, any of the bonds, notes, contracts, mortgages,
 6 securities, or other property of the savings bank held or acquired,
 7 as security for the payment of loans entered into under subdivision
 8 (3).
 9 (5) Exercise all rights, powers, and privileges conferred upon, and
 10 to do all things and perform all acts required of, members or
 11 shareholders of a federal home loan bank by the Federal Home
 12 Loan Bank Act (12 U.S.C. 1421 through 1449).

13 SECTION 9. IC 28-6.1-20 IS ADDED TO THE INDIANA CODE
 14 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2003]:

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

17 **Sec. 1. For purposes of this article, a savings bank that is not a**
 18 **member of the Federal Reserve System is subject to Sections 23A**
 19 **and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) to**
 20 **the same extent and in the same manner as if the savings bank were**
 21 **a member of the Federal Reserve System.**

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

25 SECTION 10. IC 28-7-1-9, AS AMENDED BY P.L.134-2001,
 26 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]: Sec. 9. A credit union has the following powers:

- 28 (1) To issue shares of its capital stock to its members. No
 29 commission or compensation shall be paid for securing members
 30 or for the sale of shares.
 31 (2) To make loans to members or other credit unions. A loan to
 32 another credit union may not exceed twenty percent (20%) of the
 33 paid-in capital and surplus of the credit union making the loan.
 34 (3) To make loans to officers, directors, or committee members,
 35 but only if:
 36 (A) the loan complies with all requirements under this chapter
 37 with respect to loans to other borrowers and is not on terms more
 38 favorable than those extended to other borrowers;
 39 (B) upon the making of the loan, the aggregate amount of loans
 40 outstanding under this subdivision will not exceed twenty
 41 percent (20%) of the unimpaired capital and surplus of the credit
 42 union;
 43 (C) the loan is approved by the credit committee or loan officer;
 44 and
 45 (D) the borrower takes no part in the consideration of or vote on
 46 the application.
 47 (4) To invest in any of the following:
 48 (A) Bonds, notes, or certificates that are the direct or indirect
 49 obligations of the United States, or of the state, or the direct
 50 obligations of a county, township, city, town, or other taxing
 51 district or municipality or instrumentality of Indiana and that are

- 1 not in default.
- 2 (B) Bonds or debentures issued by the Federal Home Loan Bank
3 Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan
4 Act (12 U.S.C. 1461 through 1468).
- 5 (C) Interest-bearing obligations of the FSLIC Resolution Fund
6 and obligations of national mortgage associations issued under
7 the authority of the National Housing Act.
- 8 (D) Mortgages on real estate situated in Indiana which are fully
9 insured under Title 2 of the National Housing Act (12 U.S.C.
10 1707 through 1715z).
- 11 (E) Obligations issued by farm credit banks and banks for
12 cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001
13 through 2279aa-14).
- 14 (F) In savings and loan associations, other credit unions that are
15 insured under IC 28-7-1-31.5 and certificates of indebtedness or
16 investment of an industrial loan and investment company if the
17 association or company is federally insured. Not more than
18 twenty percent (20%) of the assets of a credit union may be
19 invested in the shares or certificates of an association or
20 company; nor more than forty percent (40%) in all such
21 associations and companies.
- 22 (G) Corporate credit unions.
- 23 (H) Federal funds or similar types of daily funds transactions
24 with other financial institutions.
- 25 (I) Mutual funds created and controlled by credit unions, credit
26 union associations, or their subsidiaries. Mutual funds referred
27 to in this clause may invest only in instruments that are approved
28 for credit union purchase under this chapter.
- 29 (J) Shares, stocks, or obligations of any credit union service
30 organization (as defined in Section 712 of the Rules and
31 Regulations of the National Credit Union Administration) with
32 the approval of the department. Not more than five percent (5%)
33 of the total paid in and unimpaired capital of the credit union
34 may be invested under this clause.
- 35 (5) To deposit its funds into:
- 36 (A) depository institutions that are federally insured; or
37 (B) state chartered credit unions that are privately insured by an
38 insurer approved by the department.
- 39 (6) To purchase, hold, own, or convey real estate as may be
40 conveyed to the credit union in satisfaction of debts previously
41 contracted or in exchange for real estate conveyed to the credit
42 union.
- 43 (7) To own, hold, or convey real estate as may be purchased by the
44 credit union upon judgment in its favor or decrees of foreclosure
45 upon mortgages.
- 46 (8) To issue shares of stock and upon the terms, conditions,
47 limitations, and restrictions and with the relative rights as may be
48 stated in the bylaws of the credit union, but no stock may have
49 preference or priority over the other to share in the assets of the
50 credit union upon liquidation or dissolution or for the payment of
51 dividends except as to the amount of the dividends and the time for

- 1 the payment of the dividends as provided in the bylaws.
- 2 (9) To charge the member's share account for the actual cost of
3 necessary locator service when the member has failed to keep the
4 credit union informed about the member's current address. The
5 charge shall be made only for amounts paid to a person or concern
6 normally engaged in providing such service, and shall be made
7 against the account or accounts of any one (1) member not more
8 than once in any twelve (12) month period.
- 9 (10) To transfer to an accounts payable, a dormant account, or a
10 special account share accounts which have been inactive, except
11 for dividend credits, for a period of two (2) years. The credit union
12 shall not consider the payment of dividends on the transferred
13 account.
- 14 (11) To invest in fixed assets with the funds of the credit union. An
15 investment in fixed assets in excess of five percent (5%) of its
16 assets is subject to the approval of the department.
- 17 (12) To establish branch offices, upon approval of the department,
18 provided that all books of account shall be maintained at the
19 principal office.
- 20 (13) To pay an interest refund on loans proportionate to the interest
21 paid during the dividend period by borrowers who are members at
22 the end of the dividend period.
- 23 (14) To purchase life savings and loan protection insurance for the
24 benefit of the credit union and its members, if:
- 25 (A) the coverage is placed with an insurance company licensed
26 to do business in Indiana; and
- 27 (B) no officer, director, or employee of the credit union
28 personally benefits, directly or indirectly, from the sale or
29 purchase of the coverage.
- 30 (15) To sell and cash negotiable checks, travelers checks, and
31 money orders for members.
- 32 (16) To purchase members' notes from any liquidating credit
33 union, with written approval from the department, at prices agreed
34 upon by the boards of directors of both the liquidating and the
35 purchasing credit unions. However, the aggregate of the unpaid
36 balances of all notes of liquidating credit unions purchased by any
37 one (1) credit union shall not exceed ten percent (10%) of its
38 unimpaired capital and surplus unless special written authorization
39 has been granted by the department.
- 40 (17) To exercise such incidental powers necessary or requisite to
41 enable it to carry on effectively the business for which it is
42 incorporated.
- 43 (18) To act as a custodian or trustee of any trust created or
44 organized in the United States and forming part of a stock bonus,
45 pension, or profit sharing plan which qualifies or qualified for
46 specific tax treatment under Section 408(a) or Section 401(d) of
47 the Internal Revenue Code, if the funds of the trust are invested
48 only in share accounts or insured certificates of the credit union.
- 49 (19) To issue shares of its capital stock or insured certificates to a
50 trustee or custodian of a pension plan, profit sharing plan, or stock
51 bonus plan which qualifies for specific tax treatment under

- 1 Sections 401(d) or 408(a) of the Internal Revenue Code.
- 2 (20) A credit union may exercise any rights and privileges that are:
- 3 (A) granted to federal credit unions; but
- 4 (B) not authorized for credit unions under the Indiana Code
- 5 (except for this section) or any rule adopted under the Indiana
- 6 Code;
- 7 if the credit union complies with section 9.2 of this chapter.
- 8 (21) To sell, pledge, or discount any of its assets. ~~to purchase all or~~
- 9 ~~part of the assets of another credit union, and to assume the~~
- 10 ~~liabilities of the selling credit union.~~ However, a credit union may
- 11 not pledge any of its assets as security for the safekeeping and
- 12 prompt payment of any money deposited, except that a credit union
- 13 may, for the safekeeping and prompt payment of money deposited,
- 14 give security as authorized by federal law.
- 15 **(22) To purchase assets of another credit union and to assume**
- 16 **the liabilities of the selling credit union.**
- 17 **(23)** To act as a fiscal agent of the United States and to receive
- 18 deposits from nonmember units of the federal, state, or county
- 19 governments, from political subdivisions, and from other credit
- 20 unions upon which the credit union may pay varying interest rates
- 21 at varying maturities subject to terms, rates, and conditions that are
- 22 established by the board of directors. However, the total amount of
- 23 public funds received from units of state and county governments
- 24 and political subdivisions that a credit union may have on deposit
- 25 may not exceed ten percent (10%) of the total assets of that credit
- 26 union, excluding those public funds.
- 27 ~~(23)~~ **(24)** To join the National Credit Union Administration Central
- 28 Liquidity Facility.
- 29 ~~(24)~~ **(25)** To participate in community investment initiatives under
- 30 the administration of organizations:
- 31 (A) exempt from taxation under Section 501(c)(3) of the Internal
- 32 Revenue Code; and
- 33 (B) located or conducting activities in communities in which the
- 34 credit union does business.
- 35 Participation may be in the form of either charitable contributions
- 36 or participation loans. In either case, disbursement of funds
- 37 through the administering organization is not required to be limited
- 38 to members of the credit union. Total contributions or participation
- 39 loans may not exceed one tenth of one percent (0.001) of total
- 40 assets of the credit union. A recipient of a contribution or loan is
- 41 not considered qualified for credit union membership. A
- 42 contribution or participation loan made under this subdivision must
- 43 be approved by the board of directors.
- 44 ~~(25)~~ **(26)** To establish and operate an automated teller machine
- 45 (ATM):
- 46 (A) at any location within Indiana; or
- 47 (B) as permitted by the laws of the state in which the automated
- 48 teller machine is to be located.
- 49 ~~(26)~~ **(27)** To demand and receive, for the faithful performance and
- 50 discharge of services performed under the powers vested in the
- 51 credit union by this article:

- 1 (A) reasonable compensation, or compensation as fixed by
 2 agreement of the parties;
 3 (B) all advances necessarily paid out and expended in the
 4 discharge and performance of its duties; and
 5 (C) unless otherwise agreed upon, interest at the legal rate on the
 6 advances referred to in clause (B).
 7 ~~(27)~~ **(28)** Subject to any restrictions the department may impose,
 8 to become the owner or lessor of personal property acquired upon
 9 the request and for the use of a member and to incur additional
 10 obligations as may be incident to becoming an owner or lessor of
 11 such property.

12 SECTION 11. IC 28-7-5-2 IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2003]: Sec. 2. In this chapter, unless the context
 14 otherwise requires:

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

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

22 "Pledger" means the person who delivers personal property into the
 23 possession of a pawnbroker as security for a loan unless such person
 24 discloses that the person is or was acting for another; and in such event
 25 "pledger" means the disclosed principal.

26 "Department" means the department of financial institutions.

27 "Person" means an individual, a firm, an association, a limited
 28 liability company, a partnership, a joint stock association, a trust, or a
 29 corporation.

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

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

40 **(1) the term of a loan commences on the date on which the loan
 41 is made;**

42 **(2) differences in lengths of months are disregarded; and**

43 **(3) each day is counted as one-thirtieth (1/30) of a month.**

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

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

50 (c) If a pawnbroker charges or receives interest in excess of that
 51 provided in this section, or makes any charges not authorized by this

1 chapter, the pawnbroker shall forfeit principal and interest and return
 2 the pledge upon demand of the pledger and surrender of the pawn
 3 ticket without the principal or interest. If such excessive or
 4 unauthorized charges have been paid by the pledger, the pledger may
 5 recover the same, including the principal if paid, in a civil action
 6 against the pawnbroker.

7 SECTION 13. IC 28-7-5-28.5, AS AMENDED BY P.L.163-2001,
 8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2003]: Sec. 28.5. (a) Except as provided in subsection (b), in
 10 addition to the loan finance charge authorized by section 28 of this
 11 chapter, a pawnbroker may charge, contract for, and receive a fee not
 12 to exceed one-fifth (1/5) of the principal amount of the loan per month
 13 or any fractional part of a month for servicing the pledge that may
 14 include investigating the title, storing, providing security, appraisal,
 15 handling, making daily reports to local law enforcement officers, and
 16 for other expenses and costs associated with servicing the pledge. The
 17 fee for each month after the second month of the loan transaction is
 18 limited to one-thirtieth (1/30) of the monthly fee for each day the loan
 19 is outstanding. Such a charge when made and collected is not interest
 20 and is not a rate under IC 35-45-7-1.

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

- 24 (1) beginning ~~sixty (60) days~~ **upon the expiration of two (2)**
 25 **months** after the original date of the loan; and
- 26 (2) continuing through and including the day a pledger redeems the
 27 pledge.

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

33 SECTION 15. IC 28-7-5-35 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. If more than one (1)
 35 person shall claim the right to redeem a pledge, the pawnbroker shall
 36 incur no liability for refusing to deliver the pledge until the respective
 37 rights of the claimants shall have been adjudicated. If no action be
 38 brought against the pawnbroker by either party within the period for
 39 which the pawnbroker is required under section 30 of this chapter to
 40 hold the pledge, or within ~~thirty (30) days~~ **one (1) month** after notice
 41 of an adverse claim, the pawnbroker may proceed to sell the pledge
 42 subject to adjudication of the parties' rights.

43 SECTION 16. IC 28-8-4-1 IS AMENDED TO READ AS FOLLOWS
 44 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter does not apply
 45 to the following:

- 46 (1) The United States or an instrumentality of the United States.
- 47 (2) The state, a political subdivision of the state, or an
 48 instrumentality of the state or of a political subdivision of the state.
- 49 (3) A bank, a bank holding company, an industrial loan and
 50 investment company, a credit union, a savings association, a
 51 savings bank, a mutual bank, or a mutual savings bank organized

- 1 under the laws of any state or the United States.
- 2 (b) Unless otherwise provided in this chapter, this chapter does not
3 apply to an authorized delegate of a person:
- 4 (1) licensed under this chapter **or excluded under subsection (a);**
5 and
- 6 (2) acting within the scope of authority conferred by a written
7 contract conforming to the requirements of section 49 of this
8 chapter.
- 9 SECTION 17. IC 28-8-4-47 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding
11 any other provision of law, all information or reports obtained by the
12 director from an applicant, a licensee, or an authorized delegate,
13 whether obtained through reports, applications, examination, audits,
14 investigation, or otherwise, including but not limited to:
- 15 (1) all information contained in or related to:
- 16 (A) examination;
17 (B) investigation;
18 (C) operation; or
19 (D) condition reports prepared by, on behalf of, or for the use of
20 the director; or
- 21 (2) financial statements, balance sheets, or authorized delegate
22 information;
- 23 are confidential and may not be disclosed or distributed outside the
24 department by the director or any officer or employee of the
25 department, except as provided in subsection (b).
- 26 (b) The director may provide for the release of information to
27 representatives of state or federal:
- 28 **(1) financial institution supervisory agencies; who state in**
29 **writing under oath**
- 30 **(2) law enforcement agencies; or**
- 31 **(3) prosecutorial agencies or offices;**
- 32 that ~~they~~ shall maintain the confidentiality of the information **as**
33 **described in IC 28-1-2-30. if:**
- 34 ~~(1) the licensee provides consent before the release; or~~
35 ~~(2) the director finds that the release is reasonably necessary for~~
36 ~~the protection of the public and in the interests of justice; and the~~
37 ~~licensee has been given prior notice by the director to release the~~
38 ~~information.~~
- 39 (c) Nothing in this section shall prohibit the director from releasing
40 to the public a list of persons licensed under this chapter or from
41 releasing aggregated financial data on such licensees.
- 42 SECTION 18. IC 28-10-1-1, AS AMENDED BY P.L.82-2002,
43 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
44 JULY 1, 2003]: Sec. 1. A reference to a federal law or federal
45 regulation in IC 28 is a reference to the law or regulation in effect
46 January 1, ~~2002~~: **2003**.
- 47 SECTION 19. IC 28-11-4-3 IS AMENDED TO READ AS
48 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the director
49 determines that ~~(1)~~ a director, ~~or~~ an officer, **or an employee** of a
50 financial institution has:
- 51 ~~(A)~~ **(1)** committed a violation of a statute, a rule, ~~or~~ a final cease

1 and desist order, **any condition imposed in writing by the**
 2 **director in connection with the grant of any application or**
 3 **other request by the financial institution, or any written**
 4 **agreement between the financial institution and the director;**

5 ~~(B)~~ **(2)** engaged or participated in an unsafe or unsound practice in
 6 connection with the financial institution;

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

10 ~~(D)~~ **(4)** been charged in a complaint, an indictment, or an
 11 information with the commission of or participation in a crime
 12 involving dishonesty or breach of trust that is punishable by
 13 imprisonment for a term exceeding one (1) year under federal law
 14 or the law of a state; **and**

15 ~~(2)~~ **either:**

16 **the director, subject to subsection (b), may issue and serve upon**
 17 **the officer, director, or employee a notice of the director's intent to**
 18 **issue an order removing the person from the person's office or**
 19 **employment, an order prohibiting any participation by the person**
 20 **in the conduct of the affairs of any financial institution, or an order**
 21 **both removing the person and prohibiting the person's**
 22 **participation.**

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

26 **(1) By reason of the violation, practice, or breach:**

27 (A) the financial institution has suffered or will probably suffer
 28 substantial financial loss or other damage; or

29 (B) the interests of the financial institution's depositors could be
 30 seriously prejudiced by reason of the violation, practice, or
 31 breach of fiduciary duty.

32 ~~the director may issue and serve upon the director or the officer a~~
 33 ~~notice of charges of the practice, violation, or act.~~

34 ~~(b)~~

35 **(2) The violation, practice, or breach:**

36 **(A) involves personal dishonesty on the part of the officer,**
 37 **director, or employee; or**

38 **(B) demonstrates a willful or continuing disregard by the**
 39 **officer, director, or employee for the safety and soundness of**
 40 **the financial institution.**

41 **(c) A person convicted of a:**

42 (1) felony; or

43 (2) crime involving dishonesty or breach of trust;

44 may not serve as a director, an officer, or an employee of a financial
 45 institution, or serve in any similar capacity, unless the person obtains
 46 the written consent of the department.

47 ~~(e)~~ **(d)** A financial institution that willfully permits a person to serve
 48 the financial institution in violation of subsection (b) **or (c)** is subject
 49 to a civil penalty of five hundred dollars (\$500) for each day the
 50 violation continues. A civil penalty paid under this subsection must be
 51 deposited into the financial institutions fund established by

- 1 IC 28-11-2-9.
- 2 SECTION 20. IC 28-11-4-4 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued
- 4 under this chapter must: ~~do the following:~~
- 5 (1) contain a statement of the facts constituting the alleged
- 6 practice, violation, or act.
- 7 (2) Fix a time and place at which a hearing will be held by the
- 8 department to determine whether a final order under section 7 of
- 9 this chapter should be issued:
- 10 (b) The hearing shall be fixed for a date:
- 11 (1) not earlier than thirty (30) days; and
- 12 (2) not later than one hundred twenty (120) days;
- 13 after service of the notice. However, at the request of the party to whom
- 14 the notice is issued, the department may fix the hearing for a date
- 15 specified in the request: **breach;**
- 16 (2) state the facts alleged in support of the violation, practice,
- 17 or breach;
- 18 (3) state the director's intention to enter an order under section
- 19 3(a) of this chapter;
- 20 (4) be delivered to the board of directors of the financial
- 21 institution;
- 22 (5) be delivered to the officer, director, or employee concerned;
- 23 and
- 24 (6) specify the procedures that must be followed to initiate a
- 25 hearing to contest the facts alleged.
- 26 (b) If a hearing is requested within ten (10) days after service of
- 27 the written notice, the director or designee of the director shall
- 28 hold a hearing concerning the alleged practice, violation, or
- 29 breach. The hearing shall be held not later than forty-five (45) days
- 30 after receipt of the request. The director or designee of the
- 31 director, based on the evidence presented at the hearing, shall
- 32 enter:
- 33 (1) a final order under section 7 of this chapter for the
- 34 immediate removal of the officer, director, or employee
- 35 affected;
- 36 (2) a final order under section 7 of this chapter prohibiting
- 37 further participation by the officer, director, or employee, in
- 38 any manner, in the conduct of affairs of any financial
- 39 institution;
- 40 (3) a final order consisting of both an order described in
- 41 subdivision (1) and an order described in subdivision (2);
- 42 (4) a reprimand of the individuals, entities, or other persons
- 43 concerned; or
- 44 (5) a dismissal of the entire matter.
- 45 (c) If no hearing is requested within the time specified in
- 46 subsection (b), the director may proceed to issue a final order
- 47 described in subsection (b)(1), (b)(2), or (b)(3) on the basis of the
- 48 facts set forth in the written notice.
- 49 (d) An officer, director, or employee who is removed from a
- 50 position under a removal order that has become final may not
- 51 participate in the conduct of the affairs of any financial institution

1 **without the approval of the director.**

2 **(e) The director may, for the protection of the financial**
 3 **institution or the interests of its depositors, suspend from office or**
 4 **prohibit from participation in the affairs of the financial institution**
 5 **an officer, a director, or an employee of a financial institution who**
 6 **is the subject of a written notice served by the director under**
 7 **subsection (a). A suspension or prohibition under this subsection**
 8 **becomes effective upon service of the notice. Unless stayed by a**
 9 **court in a proceeding authorized by subsection (f), the notice shall**
 10 **remain in effect pending completion of the proceeding under the**
 11 **written notice served under subsection (a) and until the effective**
 12 **date of an order entered by the director under subsection (b) or (c).**
 13 **Copies of the notice shall also be served upon the financial**
 14 **institution or subsidiary of which the person is an officer, a**
 15 **director, or an employee.**

16 **(f) Not more than ten (10) days after an officer, a director, or an**
 17 **employee has been suspended from office or prohibited from**
 18 **participation in the conduct of the affairs of the financial**
 19 **institution or subsidiary under subsection (e), the officer, director,**
 20 **or employee may apply to a court having jurisdiction for a stay of**
 21 **the suspension or prohibition pending completion of the**
 22 **proceedings under subsection (b), and the court may stay the**
 23 **suspension of prohibition.**

24 ~~(e)~~ **(g)** The department shall maintain an official record of a
 25 proceeding under this chapter.

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

34 SECTION 22. IC 28-11-4-6 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If the department
 36 determines that an alleged practice, a violation, or an act specified in
 37 a notice served under this chapter is likely to:

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

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

44 (b) A temporary order may

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

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

- 51 (1) The issuance of an injunction by a court under subsection (d).

- 1 (2) The dismissal of the charges by the department.
- 2 (3) The effective date of a final order under section 7 of this
3 chapter.
- 4 (d) A financial institution ~~a director, or an officer~~ served with a
5 temporary order under this section may apply to a court having
6 jurisdiction for an injunction to stay, modify, or vacate the order.
- 7 SECTION 23. IC 28-11-4-7 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) ~~If upon the record~~
9 ~~made at a hearing under this chapter~~ the department finds that the
10 conditions specified in section 2 or 3 of this chapter have been
11 established, the department may issue a final order.
- 12 (b) A final order must include separately stated findings of fact **and**
13 **conclusions of law** for all aspects of the order. ~~including any remedy~~
14 ~~under subsection (c). Findings of ultimate fact must be accompanied by~~
15 ~~a concise statement of the underlying basic facts of record to support~~
16 ~~the findings.~~
- 17 (c) A final order may do any of the following:
- 18 (1) Require the financial institution and its directors, officers,
19 employees, and agents to do any of the following:
- 20 (A) Cease and desist from the practice or violation.
- 21 (B) Take affirmative action to correct the conditions resulting
22 from the practice or violation.
- 23 (2) **Permanently remove Suspend or prohibit** a director, ~~or an~~
24 ~~officer, or an employee from participating in the affairs of a~~
25 **financial institution or subsidiary.**
- 26 (3) Impose a civil penalty not to exceed the amount specified in
27 section 9 of this chapter.
- 28 (d) A final order shall be issued in writing within ninety (90) days
29 after conclusion of the hearing, unless this period is waived or extended
30 with the written consent of all parties or for good cause shown. **A final**
31 **order issued under this chapter may be made public by the**
32 **department.**
- 33 (e) If the financial institution, director, or officer does not appear
34 individually or by a duly authorized representative at the hearing, the
35 financial institution, director, or officer is considered to have consented
36 to the issuance of a final order.
- 37 SECTION 24. IC 28-12-11-1 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section
39 applies only to a corporation that is any of the following:
- 40 (1) A bank and trust company.
- 41 (2) A bank.
- 42 (3) A stock savings bank.
- 43 (b) The department shall determine the minimum amount of the
44 capital ~~stock~~ of a corporation organized or reorganized under this title
45 after giving consideration to the potential deposit liability to be
46 anticipated in the case of a proposed new corporation, or the existing
47 deposit liability of a corporation to be reorganized.
- 48 SECTION 25. IC 28-13-4-4 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~A bank, trust~~
50 ~~company, or corporate fiduciary corporation~~ may not, during the time
51 it continues in business as such, withdraw or authorize or permit to be

1 withdrawn any portion of the capital stock in the form of dividends or
2 otherwise.

3 SECTION 26. IC 28-13-4-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A ~~bank, trust~~
5 ~~company, or corporate fiduciary~~ **corporation** may not declare or pay
6 any dividends to its shareholders in any form if, by the payment of the
7 dividends, its capital stock will be thereby impaired.

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

13 **(c) A corporation must obtain department approval before**
14 **reducing the corporation's capital stock, capital surplus, or**
15 **preferred stock.**

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

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

- 33 (1) Quality of management.
- 34 (2) Liquidity of assets.
- 35 (3) History of earnings and the retention of earnings.
- 36 (4) Quality and character of ownership.
- 37 (5) Burden of occupancy expenses.
- 38 (6) Potential volatility of deposit structure.
- 39 (7) Quality of operating procedures.
- 40 (8) Capacity to meet present and future needs of the area served,
41 considering its competition.

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

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

- 49 (1) Quality of management.
- 50 (2) Liquidity of assets.
- 51 (3) History of earnings and the retention of earnings.

- 1 (4) Quality and character of ownership.
- 2 (5) Burden of occupancy expenses.
- 3 (6) Quality of operating procedures.
- 4 (7) Ability to administer fiduciary accounts in a prudent manner
- 5 consistent with applicable laws or regulations.

6 (d) If the department determines that an increase in capital is
7 necessary, the department shall enter an order fixing the amount of the
8 increase. The order must be complied with within the period fixed by
9 the order.

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

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

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

25 SECTION 30. IC 28-15-2-1 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Savings associations
27 may do the following:

- 28 (1) Accept deposit accounts.
- 29 (2) Issue evidence of deposit account ownership.
- 30 (3) Declare and distribute earnings to members.
- 31 (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- 32 (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and
- 33 12 CFR 32:
 - 34 (A) Make loans to members on the security of deposit accounts.
 - 35 (B) Make property improvement loans.
 - 36 (C) Make other loans as provided under IC 28-15-8.
 - 37 (D) Make mortgage loans.
 - 38 (E) Accept additional collateral on mortgage loans.
 - 39 (F) Purchase and sell loans.
 - 40 (G) Negotiate loan servicing agreements.
 - 41 (H) Purchase and sell participating interests in loans.
 - 42 (I) Issue letters of credit with specific expiration dates.
 - 43 (J) Make secured or unsecured loans, which are partially insured
 - 44 or guaranteed in any manner by any state of the United States,
 - 45 the United States government, or any of its agencies or
 - 46 government sponsored enterprises.
 - 47 (K) Purchase commercial paper that is denominated in United
 - 48 States currency and rated by at least one (1) nationally
 - 49 recognized investment rating service in one (1) of the two (2)
 - 50 highest grades.
 - 51 (L) Make, purchase, or participate in alternative mortgage loans

- 1 as provided in IC 28-15-11.
- 2 (6) Acquire and sell real estate in satisfaction of debts previously
3 contracted.
- 4 (7) Acquire real estate for the convenient transaction of its
5 business. A savings association has the same powers under this
6 subdivision as a bank or trust company has under IC 28-1-11-5.
- 7 (8) Notwithstanding any other law, establish, maintain, or relocate
8 one (1) or more branch offices by following the provisions of
9 IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association
10 were a bank.
- 11 (9) Become a member in any agency or instrumentality of the
12 federal government. For the purposes of this subdivision,
13 membership in an agency or instrumentality of the federal
14 government may include:
- 15 (A) purchasing stock;
- 16 (B) purchasing notes and debentures; or
- 17 (C) borrowing money.
- 18 **(10) Subject to any limitations imposed by the department**
19 **through policy:**
- 20 **(A) invest the money deposited in the savings association in**
21 **the shares of the capital stock, bonds, debentures, notes, or**
22 **other obligations of a federal home loan bank of the United**
23 **States;**
- 24 **(B) become a member of the federal home loan bank of the**
25 **district in which Indiana is located or an adjoining district;**
- 26 **(C) borrow money from:**
- 27 **(i) a federal home loan bank described in clause (B);**
- 28 **(ii) the Federal Deposit Insurance Corporation; or**
- 29 **(iii) any other corporation;**
- 30 **(D) transfer, assign to, and pledge with a federal home loan**
31 **bank described in clause (B), the Federal Deposit Insurance**
32 **Corporation, or any other corporation any of the bonds,**
33 **notes, contracts, mortgages, securities, or other property of**
34 **the savings association held or acquired as security for the**
35 **payment of loans entered into under clause (C); and**
- 36 **(E) exercise all rights, powers, and privileges conferred upon,**
37 **and do all things and perform all acts required of, members**
38 **or shareholders of a federal home loan bank by the Federal**
39 **Home Loan Bank Act (12 U.S.C. 1421 through 1449).**
- 40 **(11) Subject to the provisions and restrictions of 12 U.S.C. 24 and**
41 **12 CFR 1, invest in the following types of securities:**
- 42 (A) Bonds, notes, certificates, and other valid obligations of the
43 United States government or any agency of the United States
44 government.
- 45 (B) Accounts offered by federally insured banks, savings banks,
46 and savings associations.
- 47 (C) Bonds, notes, or other evidences of indebtedness that are
48 general obligations supported by the full faith and credit of any
49 state in the United States or any city, town, or other political
50 subdivision in any state in the United States if the obligations
51 have been assigned one (1) of the four (4) highest grades by a

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

1 instruments for the transmission or payment of money.

2 ~~(21)~~ **(22)** Exercise all the powers that:

3 (A) are incidental and proper; or

4 (B) may be necessary and usual;

5 in carrying on the business of the savings association.

6 ~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the
7 buildings, and lease the buildings for public purposes to municipal
8 corporations or other public authorities that have resources
9 sufficient to make payment of all rentals as they become due. Each
10 lease agreement entered into under this subdivision must provide
11 that, upon expiration, the lessee will become the owner of the
12 building.

13 ~~(23)~~ **(24)** Open or establish automated teller machines at any
14 location. An automated teller machine opened or established under
15 this subdivision may be owned and operated individually or jointly
16 on a cost sharing or fee basis.

17 ~~(24)~~ **(25)** Act:

18 (A) in any fiduciary capacity in which a bank or trust company
19 is permitted to act under this title; and

20 (B) as an agent for the sale of real estate, without bond or other
21 security.

22 ~~(25)~~ **(26)** Accept and maintain demand deposit accounts if the
23 savings association is insured by the Federal Deposit Insurance
24 Corporation or its successor.

25 ~~(26)~~ **(27)** Without the approval of the department, to the extent
26 authorized by the board of directors of the savings association,
27 establish or maintain agencies that:

28 (A) only service and originate, but do not approve, loans and
29 contracts; or

30 (B) manage or sell real estate owned by the savings association.

31 An agency established or maintained under this subdivision may
32 offer any services not referred to in this subdivision with the
33 approval of the department, except for accepting payment on
34 savings accounts. An agency shall maintain records of all business
35 it transacts and transmit copies to a branch or home office of the
36 savings association.

37 SECTION 31. IC 28-15-16 IS ADDED TO THE INDIANA CODE
38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2003]:

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

41 **Sec. 1. For purposes of this article, a savings association that is**
42 **not a member of the Federal Reserve System is subject to Sections**
43 **23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1)**
44 **to the same extent and in the same manner as if the savings**
45 **association were a member of the Federal Reserve System.**

46 **Sec. 2. A violation of Section 23A or 23B of the Federal Reserve**
47 **Act (12 U.S.C. 371c or 371c-1) by a savings association or a**
48 **subsidiary constitutes a violation of this chapter.**

49 SECTION 32. [EFFECTIVE UPON PASSAGE] **This act does not**
50 **affect:**

51 **(1) rights or liabilities accrued;**

1 **(2) penalties incurred;**
2 **(3) crimes committed; or**
3 **(4) proceedings begun;**
4 **before the effective date of this act. Those rights, liabilities,**
5 **penalties, crimes, and proceedings continue and shall be imposed**
6 **under prior law as if this act had not been enacted.**
7 SECTION 33. **An emergency is declared for this act.**
8 (Reference is to EHB 1834 as reprinted April 8, 2003.)

Conference Committee Report
on
Engrossed House Bill 1834

Signed by:

Representative Bardon
Chairperson

Senator Paul

Representative Burton

Senator Lewis

House Conferees

Senate Conferees