

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 ENROLLED ACT No. 1834

AN ACT to amend the Indiana Code concerning financial institutions.

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

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

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

- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
- (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;
- (e) to permit and encourage the development of fair and economically sound consumer credit practices;
- (f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and
- (g) to make uniform the law including administrative rules among

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the various jurisdictions.

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

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

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

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

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

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

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

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

- (1) in the discretion of the director for an additional thirty (30) days; and
- (2) not to exceed two (2) additional times for not more than

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forty-five (45) days each time if:

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

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

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

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

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

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

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

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

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

(2) vote at least twenty-five percent (25%) of any class of voting securities of a bank, a trust company, a ~~bank~~ holding company, a corporate fiduciary, or an industrial loan and investment company.

(f) The president or other chief executive officer of a financial institution **or holding company** shall report to the director of the department any transfer or sale of shares of stock of the financial

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

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

- (1) Invest the money deposited in the bank or trust company 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 the district in which Indiana is located or an adjoining district.
- (3) Borrow money from:
 - (A) a federal home loan bank described in subdivision (2);
 - (B) the Federal Deposit Insurance Corporation; or
 - (C) any other corporation.
- (4) Transfer, assign to, and pledge with a federal home loan bank described in subdivision (2), the Federal Deposit Insurance Corporation, or other corporation any of the bonds, notes, contracts, mortgages, securities, or any other property of the bank or trust company 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 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).

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

- (1) to use the word "bank", **banc, or banco** as a part of the name or title of the person, firm, or corporation; or
- (2) to advertise or represent the person, firm, limited liability



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company, or corporation to the public:

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

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

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

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

- (1) the words "savings bank"; or
- (2) the word "bank" if the name or title also includes either the words "savings bank" or letters "SB".

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

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

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

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

(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", **banc**, or **banco** in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents

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of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

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

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

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

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

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

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

(A) originated from;

(B) is endorsed by; or

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

the existing bank or bank holding company.

(m) An existing bank or bank holding company may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists

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in using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars (\$15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

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

- (1) originated from;
- (2) is endorsed by; or
- (3) is in any other way the responsibility of;

the existing bank or bank holding company.

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

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

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

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

at the trust office.

SECTION 8. 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.

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- (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).

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

Chapter 20. Applicability of the Federal Reserve Act

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

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

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

- (1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.
- (2) To make loans to members or other credit unions. A loan to another credit union may not exceed twenty percent (20%) of the paid-in capital and surplus of the credit union making the loan.
- (3) To make loans to officers, directors, or committee members, but only if:
 - (A) the loan complies with all requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;
 - (B) upon the making of the loan, the aggregate amount of loans outstanding under this subdivision will not exceed

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twenty percent (20%) of the unimpaired capital and surplus of the credit union;

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

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

(4) To invest in any of the following:

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

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

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

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

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5 and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with

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the approval of the department. Not more than five percent (5%) of the total paid in and unimpaired capital of the credit union may be invested under this clause.

- (5) To deposit its funds into:
 - (A) depository institutions that are federally insured; or
 - (B) state chartered credit unions that are privately insured by an insurer approved by the department.
- (6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.
- (7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.
- (8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.
- (9) To charge the member's share account for the actual cost of necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.
- (10) To transfer to an accounts payable, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of two (2) years. The credit union shall not consider the payment of dividends on the transferred account.
- (11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.
- (12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.
- (13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

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(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(15) To sell and cash negotiable checks, travelers checks, and money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of its unimpaired capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan which qualifies or qualified for specific tax treatment under Section 408(a) or Section 401(d) of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

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

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

(A) granted to federal credit unions; but

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

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

(21) To sell, pledge, or discount any of its assets. ~~to purchase all or part of the assets of another credit union; and to assume the liabilities of the selling credit union.~~ However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit

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union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

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

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

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

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

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

(B) located or conducting activities in communities in which 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

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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 11. 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 "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

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

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

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

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

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

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

The minimum term of a loan made by a pawnbroker is one (1) month. However, on loans paid in full within the first month, the

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pawnbroker may charge one (1) month's interest.

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

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

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

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

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

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

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

SECTION 15. IC 28-7-5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. If more than one (1) person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective

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rights of the claimants shall have been adjudicated. If no action be brought against the pawnbroker by either party within the period for which the pawnbroker is required under section 30 of this chapter to hold the pledge, or within ~~thirty (30) days~~ **one (1) month** after notice of an adverse claim, the pawnbroker may proceed to sell the pledge subject to adjudication of the parties' rights.

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

- (1) The United States or an instrumentality of the United States.
- (2) The state, a political subdivision of the state, or an instrumentality of the state or of a political subdivision of the state.
- (3) A bank, a bank holding company, an industrial loan and investment company, a credit union, a savings association, a savings bank, a mutual bank, or a mutual savings bank organized under the laws of any state or the United States.

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

- (1) licensed under this chapter **or excluded under subsection (a)**; and
- (2) acting within the scope of authority conferred by a written contract conforming to the requirements of section 49 of this chapter.

SECTION 17. IC 28-8-4-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including but not limited to:

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

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

(b) The director may provide for the release of information to

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representatives of state or federal:

- (1) **financial institution supervisory agencies; who state in writing under oath**
- (2) **law enforcement agencies; or**
- (3) **prosecutorial agencies or offices;**

that ~~they~~ shall maintain the confidentiality of the information as described in IC 28-1-2-30. ~~if:~~

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

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

SECTION 18. IC 28-10-1-1, AS AMENDED BY P.L.82-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~2002~~: **2003**.

SECTION 19. IC 28-11-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the director determines that ~~(1)~~ a director, ~~or~~ an officer, **or an employee** of a financial institution has:

- ~~(A)~~ **(1) committed a violation of a statute, a rule, or a final cease and desist order, any condition imposed in writing by the director in connection with the grant of any application or other request by the financial institution, or any written agreement between the financial institution and the director;**
 - ~~(B)~~ **(2) engaged or participated in an unsafe or unsound practice in connection with the financial institution;**
 - ~~(C)~~ **(3) committed or engaged in an act, an omission, or a practice that constitutes a breach of fiduciary duty as director, or officer, or employee; or**
 - ~~(D)~~ **(4) been charged in a complaint, an indictment, or an information with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one (1) year under federal law or the law of a state; and**
- ~~(2) either:~~

the director, subject to subsection (b), may issue and serve upon the officer, director, or employee a notice of the director's intent to

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issue an order removing the person from the person's office or employment, an order prohibiting any participation by the person in the conduct of the affairs of any financial institution, or an order both removing the person and prohibiting the person's participation.

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

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

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

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

the director may issue and serve upon the director or the officer a notice of charges of the practice, violation, or act:

~~(b)~~

(2) The violation, practice, or breach:

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

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

(c) A person convicted of a:

(1) felony; or

(2) crime involving dishonesty or breach of trust;

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

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

SECTION 20. IC 28-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued under this chapter must: ~~do the following:~~

(1) contain a statement of the facts constituting the alleged practice, violation, or act:

(2) ~~Fix a time and place at which a hearing will be held by the department to determine whether a final order under section 7 of~~

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this chapter should be issued.

(b) The hearing shall be fixed for a date:

(1) not earlier than thirty (30) days; and

(2) not later than one hundred twenty (120) days;

after service of the notice. However, at the request of the party to whom the notice is issued, the department may fix the hearing for a date specified in the request: **breach;**

(2) state the facts alleged in support of the violation, practice, or breach;

(3) state the director's intention to enter an order under section 3(a) of this chapter;

(4) be delivered to the board of directors of the financial 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

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

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

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

SECTION 21. 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 22. 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 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



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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.

SECTION 23. 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.**



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

SECTION 25. IC 28-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A ~~bank, trust company, or corporate fiduciary corporation~~ may not, during the time it continues in business as such, withdraw or authorize or permit to be withdrawn any portion of the capital stock in the form of dividends or otherwise.

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

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

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

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

SECTION 28. IC 28-13-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The department may, if the department considers it necessary for the protection of the

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depositors, require any bank or trust **company, savings bank, or savings association** to increase the sound capital or to reduce the amount of the deposits of the bank or trust **company, savings bank, or savings association**. The department shall, in arriving at a decision whether to order a bank or trust **company, savings bank, or savings association** to increase the sound capital or reduce the amount of the deposits for the protection of **the depositors of the bank or trust company's depositors, company, savings bank, or savings association**, take into consideration the following:

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

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

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

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

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

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

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establishing the subsidiary. The department shall notify the requesting financial institution of the department's receipt of the notice.

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

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

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

- (1) Accept deposit accounts.
- (2) Issue evidence of deposit account ownership.
- (3) Declare and distribute earnings to members.
- (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and 12 CFR 32:
 - (A) Make loans to members on the security of deposit accounts.
 - (B) Make property improvement loans.
 - (C) Make other loans as provided under IC 28-15-8.
 - (D) Make mortgage loans.
 - (E) Accept additional collateral on mortgage loans.
 - (F) Purchase and sell loans.
 - (G) Negotiate loan servicing agreements.
 - (H) Purchase and sell participating interests in loans.
 - (I) Issue letters of credit with specific expiration dates.
 - (J) Make secured or unsecured loans, which are partially insured or guaranteed in any manner by any state of the United States, the United States government, or any of its agencies or government sponsored enterprises.
 - (K) Purchase commercial paper that is denominated in United States currency and rated by at least one (1) nationally recognized investment rating service in one (1) of the two (2) highest grades.
 - (L) Make, purchase, or participate in alternative mortgage loans as provided in IC 28-15-11.
- (6) Acquire and sell real estate in satisfaction of debts previously contracted.
- (7) Acquire real estate for the convenient transaction of its

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business. A savings association has the same powers under this subdivision as a bank or trust company has under IC 28-1-11-5.

(8) Notwithstanding any other law, establish, maintain, or relocate one (1) or more branch offices by following the provisions of IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association were a bank.

(9) Become a member in any agency or instrumentality of the federal government. For the purposes of this subdivision, membership in an agency or instrumentality of the federal government may include:

- (A) purchasing stock;
- (B) purchasing notes and debentures; or
- (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.

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(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 IC 28-15-9.

(E) Corporate debt securities that are denominated in United States currency and rated by at least one (1) nationally recognized investment rating service in one (1) of the four (4) highest grades. Corporate debt securities in which a savings association invests under this clause must be convertible into stock at the sole option of the holder, and a savings association is prohibited from exercising the conversion option.

(F) Shares of open end investment companies that are eligible for purchase by national banks.

(G) Bankers' acceptances that are eligible for purchase by national banks.

(H) (12) For the purpose of:

(A) check and deposit sorting and posting;

(B) computation and posting of interest and other credits and charges;

(C) preparation and mailing of checks, statements, notices, and similar items; or

(D) other clerical, bookkeeping, accounting, statistical, or similar functions performed by a savings association;

invest in a corporation organized in any state to perform those functions for two (2) or more savings associations, each of which owns a portion of the capital stock of the corporation. The total investment of a savings association under this subdivision may not exceed ten percent (10%) of the capital and surplus of the savings association. A savings association may not invest in this type of corporation unless the corporation furnishes assurances to the department that it will subject itself to examination by the department to the same extent as if the services were performed by the savings association.

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- ~~(12)~~ **(13)** Lend money to other savings associations:
- (A) the deposits of which are insured by the Federal Deposit Insurance Corporation; and
 - (B) that are incorporated and operating under the laws of any state or of the United States.
- ~~(13)~~ **(14)** Borrow money and mortgage or pledge its property to secure payment.
- ~~(14)~~ **(15)** Issue subordinated notes or debentures.
- ~~(15)~~ **(16)** Assess and collect interest, fees, and other charges.
- ~~(16)~~ **(17)** Insure its deposit accounts with the Federal Deposit Insurance Corporation or its successor.
- ~~(17)~~ **(18)** Act as an agent for the United States or its instrumentalities.
- ~~(18)~~ **(19)** Accept property for safe keeping or escrow.
- ~~(19)~~ **(20)** Rent or lease safe deposit boxes.
- ~~(20)~~ **(21)** Issue and sell checks, drafts, money orders, and other instruments for the transmission or payment of money.
- ~~(21)~~ **(22)** Exercise all the powers that:
- (A) are incidental and proper; or
 - (B) may be necessary and usual;
- in carrying on the business of the savings association.
- ~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the buildings, and lease the buildings for public purposes to municipal corporations or other public authorities that have resources sufficient to make payment of all rentals as they become due. Each lease agreement entered into under this subdivision must provide that, upon expiration, the lessee will become the owner of the building.
- ~~(23)~~ **(24)** Open or establish automated teller machines at any location. An automated teller machine opened or established under this subdivision may be owned and operated individually or jointly on a cost sharing or fee basis.
- ~~(24)~~ **(25)** Act:
- (A) in any fiduciary capacity in which a bank or trust company is permitted to act under this title; and
 - (B) as an agent for the sale of real estate, without bond or other security.
- ~~(25)~~ **(26)** Accept and maintain demand deposit accounts if the savings association is insured by the Federal Deposit Insurance Corporation or its successor.
- ~~(26)~~ **(27)** Without the approval of the department, to the extent authorized by the board of directors of the savings association,

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establish or maintain agencies that:

- (A) only service and originate, but do not approve, loans and contracts; or
- (B) manage or sell real estate owned by the savings association.

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

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

Chapter 16. Applicability of the Federal Reserve Act

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

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

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

- (1) rights or liabilities accrued;
- (2) penalties incurred;
- (3) crimes committed; or
- (4) proceedings begun;

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

SECTION 33. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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