
HOUSE BILL No. 1834

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.5; IC 28-1; IC 28-2-13-26; IC 28-6.1-20; IC 28-7; IC 28-8-4-1; IC 28-10-1-1; IC 28-11-4; IC 28-12-11-1; IC 28-13; IC 28-15.

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

Effective: Upon passage; July 1, 2003.

Bardon

January 23, 2003, read first time and referred to Committee on Financial Institutions.

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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.

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HOUSE BILL No. 1834



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

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

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



1 (e) to permit and encourage the development of fair and
2 economically sound consumer credit practices;

3 (f) to conform the regulation of consumer credit transactions to
4 the policies of the Federal Consumer Credit Protection Act; and

5 (g) to make uniform the law including administrative rules among
6 the various jurisdictions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 corporate fiduciary, or an industrial loan and investment
2 company.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 at the trust office.

13 SECTION 7. IC 28-6.1-20 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 section.**

25 SECTION 8. 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
 38 more favorable than those extended to other borrowers;

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



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- 1 (C) the loan is approved by the credit committee or loan
 2 officer; and
 3 (D) the borrower takes no part in the consideration of or vote
 4 on the application.
- 5 (4) To invest in any of the following:
- 6 (A) Bonds, notes, or certificates that are the direct or indirect
 7 obligations of the United States, or of the state, or the direct
 8 obligations of a county, township, city, town, or other taxing
 9 district or municipality or instrumentality of Indiana and that
 10 are not in default.
- 11 (B) Bonds or debentures issued by the Federal Home Loan
 12 Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners'
 13 Loan Act (12 U.S.C. 1461 through 1468).
- 14 (C) Interest-bearing obligations of the FSLIC Resolution Fund
 15 and obligations of national mortgage associations issued under
 16 the authority of the National Housing Act.
- 17 (D) Mortgages on real estate situated in Indiana which are
 18 fully insured under Title 2 of the National Housing Act (12
 19 U.S.C. 1707 through 1715z).
- 20 (E) Obligations issued by farm credit banks and banks for
 21 cooperatives under the Farm Credit Act of 1971 (12 U.S.C.
 22 2001 through 2279aa-14).
- 23 (F) In savings and loan associations, other credit unions that
 24 are insured under IC 28-7-1-31.5 and certificates of
 25 indebtedness or investment of an industrial loan and
 26 investment company if the association or company is federally
 27 insured. Not more than twenty percent (20%) of the assets of
 28 a credit union may be invested in the shares or certificates of
 29 an association or company; nor more than forty percent (40%)
 30 in all such associations and companies.
- 31 (G) Corporate credit unions.
- 32 (H) Federal funds or similar types of daily funds transactions
 33 with other financial institutions.
- 34 (I) Mutual funds created and controlled by credit unions, credit
 35 union associations, or their subsidiaries. Mutual funds referred
 36 to in this clause may invest only in instruments that are
 37 approved for credit union purchase under this chapter.
- 38 (J) Shares, stocks, or obligations of any credit union service
 39 organization (as defined in Section 712 of the Rules and
 40 Regulations of the National Credit Union Administration) with
 41 the approval of the department. Not more than five percent
 42 (5%) of the total paid in and unimpaired capital of the credit

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

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- 1 (A) the coverage is placed with an insurance company licensed
 2 to do business in Indiana; and
 3 (B) no officer, director, or employee of the credit union
 4 personally benefits, directly or indirectly, from the sale or
 5 purchase of the coverage.
- 6 (15) To sell and cash negotiable checks, travelers checks, and
 7 money orders for members.
- 8 (16) To purchase members' notes from any liquidating credit
 9 union, with written approval from the department, at prices agreed
 10 upon by the boards of directors of both the liquidating and the
 11 purchasing credit unions. However, the aggregate of the unpaid
 12 balances of all notes of liquidating credit unions purchased by any
 13 one (1) credit union shall not exceed ten percent (10%) of its
 14 unimpaired capital and surplus unless special written
 15 authorization has been granted by the department.
- 16 (17) To exercise such incidental powers necessary or requisite to
 17 enable it to carry on effectively the business for which it is
 18 incorporated.
- 19 (18) To act as a custodian or trustee of any trust created or
 20 organized in the United States and forming part of a stock bonus,
 21 pension, or profit sharing plan which qualifies or qualified for
 22 specific tax treatment under Section 408(a) or Section 401(d) of
 23 the Internal Revenue Code, if the funds of the trust are invested
 24 only in share accounts or insured certificates of the credit union.
- 25 (19) To issue shares of its capital stock or insured certificates to
 26 a trustee or custodian of a pension plan, profit sharing plan, or
 27 stock bonus plan which qualifies for specific tax treatment under
 28 Sections 401(d) or 408(a) of the Internal Revenue Code.
- 29 (20) A credit union may exercise any rights and privileges that
 30 are:
 31 (A) granted to federal credit unions; but
 32 (B) not authorized for credit unions under the Indiana Code
 33 (except for this section) or any rule adopted under the Indiana
 34 Code;
 35 if the credit union complies with section 9.2 of this chapter.
- 36 (21) To sell, pledge, or discount any of its assets. ~~to purchase all~~
 37 ~~or part of the assets of another credit union; and to assume the~~
 38 ~~liabilities of the selling credit union.~~ However, a credit union may
 39 not pledge any of its assets as security for the safekeeping and
 40 prompt payment of any money deposited, except that a credit
 41 union may, for the safekeeping and prompt payment of money
 42 deposited, give security as authorized by federal law.

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- 1 **(22) To purchase assets of another credit union and to assume**
 2 **the liabilities of the selling credit union.**
 3 **(23)** To act as a fiscal agent of the United States and to receive
 4 deposits from nonmember units of the federal, state, or county
 5 governments, from political subdivisions, and from other credit
 6 unions upon which the credit union may pay varying interest rates
 7 at varying maturities subject to terms, rates, and conditions that
 8 are established by the board of directors. However, the total
 9 amount of public funds received from units of state and county
 10 governments and political subdivisions that a credit union may
 11 have on deposit may not exceed ten percent (10%) of the total
 12 assets of that credit union, excluding those public funds.
 13 ~~(23)~~ **(24)** To join the National Credit Union Administration
 14 Central Liquidity Facility.
 15 ~~(24)~~ **(25)** To participate in community investment initiatives
 16 under the administration of organizations:
 17 (A) exempt from taxation under Section 501(c)(3) of the
 18 Internal Revenue Code; and
 19 (B) located or conducting activities in communities in which
 20 the credit union does business.
 21 Participation may be in the form of either charitable contributions
 22 or participation loans. In either case, disbursement of funds
 23 through the administering organization is not required to be
 24 limited to members of the credit union. Total contributions or
 25 participation loans may not exceed one tenth of one percent
 26 (0.001) of total assets of the credit union. A recipient of a
 27 contribution or loan is not considered qualified for credit union
 28 membership. A contribution or participation loan made under this
 29 subdivision must be approved by the board of directors.
 30 ~~(25)~~ **(26)** To establish and operate an automated teller machine
 31 (ATM):
 32 (A) at any location within Indiana; or
 33 (B) as permitted by the laws of the state in which the
 34 automated teller machine is to be located.
 35 ~~(26)~~ **(27)** To demand and receive, for the faithful performance and
 36 discharge of services performed under the powers vested in the
 37 credit union by this article:
 38 (A) reasonable compensation, or compensation as fixed by
 39 agreement of the parties;
 40 (B) all advances necessarily paid out and expended in the
 41 discharge and performance of its duties; and
 42 (C) unless otherwise agreed upon, interest at the legal rate on

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1 the advances referred to in clause (B).
 2 ~~(27)~~ **(28)** Subject to any restrictions the department may impose,
 3 to become the owner or lessor of personal property acquired upon
 4 the request and for the use of a member and to incur additional
 5 obligations as may be incident to becoming an owner or lessor of
 6 such property.

7 SECTION 9. IC 28-7-5-2 IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2003]: Sec. 2. In this chapter, unless the context
 9 otherwise requires:

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

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

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

21 "Department" means the department of financial institutions.

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

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

30 SECTION 10. IC 28-7-5-28 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The maximum
 32 rate of interest charged by pawnbrokers shall be the same as the
 33 maximum loan finance charge for supervised lenders under
 34 IC 24-4.5-3-508(2). **For purposes of this subsection:**

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

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

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

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

42 (b) Interest shall not be deducted in advance, neither shall the

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1 pawnbroker induce or permit any borrower to split up or divide any
2 loan or loans for the purpose of evading any provisions of this chapter.

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

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

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

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

32 SECTION 12. IC 28-7-5-30, AS AMENDED BY P.L.163-2001,
33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 30. ~~After~~ **Upon** the expiration of ~~sixty (60) days~~
35 **two (2) months** from the maturity of the loan, a pawned article
36 becomes the property of the pawnbroker and ~~is~~ subject to sale.

37 SECTION 13. IC 28-7-5-35 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. If more than one (1)
39 person shall claim the right to redeem a pledge, the pawnbroker shall
40 incur no liability for refusing to deliver the pledge until the respective
41 rights of the claimants shall have been adjudicated. If no action be
42 brought against the pawnbroker by either party within the period for

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1 which the pawnbroker is required under section 30 of this chapter to
 2 hold the pledge, or within ~~thirty (30) days~~ **one (1) month** after notice
 3 of an adverse claim, the pawnbroker may proceed to sell the pledge
 4 subject to adjudication of the parties' rights.

5 SECTION 14. IC 28-8-4-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter does
 7 not apply to the following:

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

9 (2) The state, a political subdivision of the state, or an
 10 instrumentality of the state or of a political subdivision of the
 11 state.

12 (3) A bank, a bank holding company, an industrial loan and
 13 investment company, a credit union, a savings association, a
 14 savings bank, a mutual bank, or a mutual savings bank organized
 15 under the laws of any state or the United States.

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

18 (1) licensed under this chapter **or excluded under subsection**
 19 **(a);** and

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

23 SECTION 15. IC 28-10-1-1, AS AMENDED BY P.L.82-2002,
 24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2003]: Sec. 1. A reference to a federal law or federal
 26 regulation in IC 28 is a reference to the law or regulation in effect
 27 January 1, ~~2002~~: **2003**.

28 SECTION 16. IC 28-11-4-3 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the director
 30 determines that ~~(†)~~ a director, ~~or~~ an officer, **or an employee** of a
 31 financial institution has:

32 ~~(A)~~ **(1)** committed a violation of a statute, a rule, ~~or~~ a final cease
 33 and desist order, **any condition imposed in writing by the**
 34 **director in connection with the grant of any application or**
 35 **other request by the financial institution, or any written**
 36 **agreement between the financial institution and the director;**
 37 ~~(B)~~ **(2)** engaged or participated in an unsafe or unsound practice
 38 in connection with the financial institution;

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

42 ~~(D)~~ **(4)** been charged in a complaint, an indictment, or an

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1 information with the commission of or participation in a crime
 2 involving dishonesty or breach of trust that is punishable by
 3 imprisonment for a term exceeding one (1) year under federal law
 4 or the law of a state; ~~and~~

5 ~~(2) either:~~

6 **the director, subject to subsection (b), may issue and serve upon**
 7 **the officer, director, or employee a notice of the director's intent to**
 8 **issue an order removing the person from the person's office or**
 9 **employment, or an order prohibiting any participation by the**
 10 **person in the conduct of the affairs of any financial institution, or**
 11 **an order both removing the person and prohibiting the person's**
 12 **participation.**

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

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

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

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

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

24 ~~(b)~~

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

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

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

31 **(c) person convicted of a:**

32 (1) felony; or

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

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

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



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1 SECTION 17. IC 28-11-4-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued
 3 under this chapter must: ~~do the following:~~

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

6 (2) ~~Fix a time and place at which a hearing will be held by the~~
 7 ~~department to determine whether a final order under section 7 of~~
 8 ~~this chapter should be issued.~~

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

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

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

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

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

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

19 (4) **be delivered to the board of directors of the financial**
 20 **institution;**

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

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

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

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

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

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

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

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

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

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

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

SECTION 18. 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

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~~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.

(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 19. 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 20. 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 21. 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

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1 never pay a dividend in an amount greater than the remainder of
 2 undivided profits then on hand after deducting losses, bad debts, or
 3 depreciation that the department may have determined, and all other
 4 expenses.

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

8 SECTION 22. IC 28-13-4-6 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. All debts due to a
 10 ~~bank, trust company, or corporate fiduciary~~ **corporation** on which
 11 interest is past due for a period of six (6) months are bad debts unless,
 12 in the opinion of the department, the debts are well secured.

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

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

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

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

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



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1 (5) Burden of occupancy expenses.

2 (6) Quality of operating procedures.

3 (7) Ability to administer fiduciary accounts in a prudent manner
4 consistent with applicable laws or regulations.

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

9 SECTION 24. IC 28-13-16-4, AS ADDED BY P.L.215-1999,
10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2003]: Sec. 4. (a) A financial institution **or any of its**
12 **subsidiaries** may acquire or establish a qualifying subsidiary by
13 providing the department with written notice before acquiring or
14 establishing the subsidiary. The department shall notify the requesting
15 financial institution of the department's receipt of the notice.

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

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

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

27 (1) Accept deposit accounts.

28 (2) Issue evidence of deposit account ownership.

29 (3) Declare and distribute earnings to members.

30 (4) Pay, in part or in full, withdrawal requests of deposit accounts.

31 (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and
32 12 CFR 32:

33 (A) Make loans to members on the security of deposit
34 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.

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- 1 (J) Make secured or unsecured loans, which are partially
 2 insured or guaranteed in any manner by any state of the United
 3 States, the United States government, or any of its agencies or
 4 government sponsored enterprises.
- 5 (K) Purchase commercial paper that is denominated in United
 6 States currency and rated by at least one (1) nationally
 7 recognized investment rating service in one (1) of the two (2)
 8 highest grades.
- 9 (L) Make, purchase, or participate in alternative mortgage
 10 loans as provided in IC 28-15-11.
- 11 (6) Acquire and sell real estate in satisfaction of debts previously
 12 contracted.
- 13 (7) Acquire real estate for the convenient transaction of its
 14 business. A savings association has the same powers under this
 15 subdivision as a bank or trust company has under IC 28-1-11-5.
- 16 (8) Notwithstanding any other law, establish, maintain, or relocate
 17 one (1) or more branch offices by following the provisions of
 18 IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings
 19 association were a bank.
- 20 (9) Become a member in any agency or instrumentality of the
 21 federal government. For the purposes of this subdivision,
 22 membership in an agency or instrumentality of the federal
 23 government may include:
- 24 (A) purchasing stock;
- 25 (B) purchasing notes and debentures; or
- 26 (C) borrowing money.
- 27 (10) **Subject to any limitations imposed by the department**
 28 **through policy:**
- 29 (A) **invest the money deposited in the savings association in**
 30 **the shares of the capital stock, bonds, debentures, notes, or**
 31 **other obligations of a federal home loan bank of the United**
 32 **States;**
- 33 (B) **become a member of the federal home loan bank of the**
 34 **district in which Indiana is located or an adjoining district;**
- 35 (C) **borrow money from:**
- 36 (i) **a federal home loan bank described in clause (B);**
- 37 (ii) **the Federal Deposit Insurance Corporation; or**
- 38 (iii) **any other corporation;**
- 39 (D) **transfer, assign to, and pledge with a federal home loan**
 40 **bank described in clause (B), the Federal Deposit**
 41 **Insurance Corporation, or any other corporation, any of**
 42 **the bonds, notes, contracts, mortgages, securities, or other**

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property of the savings association held or acquired as security for the payment of loans entered into under clause (C); and (E) exercise all rights, powers, and privileges conferred upon, and do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).

(11) Subject to the provisions and restrictions of 12 U.S.C. 24 and 12 CFR 1, invest in the following types of securities:

(A) Bonds, notes, certificates, and other valid obligations of the United States government or any agency of the United States government.

(B) Accounts offered by federally insured banks, savings banks, and savings associations.

(C) Bonds, notes, or other evidences of indebtedness that are general obligations supported by the full faith and credit of any state in the United States or any city, town, or other political subdivision in any state in the United States if the obligations have been assigned one (1) of the four (4) highest grades by a nationally recognized investment rating service.

(D) Shares of stock of a subsidiary that does not exercise a power or engage in any activity that is not authorized for the savings association. The investment power granted by this subdivision is separate from the investment power granted by 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

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- 1 similar items; or
 2 (D) other clerical, bookkeeping, accounting, statistical, or
 3 similar functions performed by a savings association;
 4 invest in a corporation organized in any state to perform those
 5 functions for two (2) or more savings associations, each of which
 6 owns a portion of the capital stock of the corporation. The total
 7 investment of a savings association under this subdivision may
 8 not exceed ten percent (10%) of the capital and surplus of the
 9 savings association. A savings association may not invest in this
 10 type of corporation unless the corporation furnishes assurances to
 11 the department that it will subject itself to examination by the
 12 department to the same extent as if the services were performed
 13 by the savings association.
- 14 ~~(12)~~ **(13)** Lend money to other savings associations:
 15 (A) the deposits of which are insured by the Federal Deposit
 16 Insurance Corporation; and
 17 (B) that are incorporated and operating under the laws of any
 18 state or of the United States.
- 19 ~~(13)~~ **(14)** Borrow money and mortgage or pledge its property to
 20 secure payment.
- 21 ~~(14)~~ **(15)** Issue subordinated notes or debentures.
- 22 ~~(15)~~ **(16)** Assess and collect interest, fees, and other charges.
- 23 ~~(16)~~ **(17)** Insure its deposit accounts with the Federal Deposit
 24 Insurance Corporation or its successor.
- 25 ~~(17)~~ **(18)** Act as an agent for the United States or its
 26 instrumentalities.
- 27 ~~(18)~~ **(19)** Accept property for safe keeping or escrow.
- 28 ~~(19)~~ **(20)** Rent or lease safe deposit boxes.
- 29 ~~(20)~~ **(21)** Issue and sell checks, drafts, money orders, and other
 30 instruments for the transmission or payment of money.
- 31 ~~(21)~~ **(22)** Exercise all the powers that:
 32 (A) are incidental and proper; or
 33 (B) may be necessary and usual;
 34 in carrying on the business of the savings association.
- 35 ~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the
 36 buildings, and lease the buildings for public purposes to
 37 municipal corporations or other public authorities that have
 38 resources sufficient to make payment of all rentals as they become
 39 due. Each lease agreement entered into under this subdivision
 40 must provide that, upon expiration, the lessee will become the
 41 owner of the building.
- 42 ~~(23)~~ **(24)** Open or establish automated teller machines at any

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1 location. An automated teller machine opened or established
 2 under this subdivision may be owned and operated individually
 3 or jointly on a cost sharing or fee basis.

4 ~~(24)~~ (25) Act:

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

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

9 ~~(25)~~ (26) Accept and maintain demand deposit accounts if the
 10 savings association is insured by the Federal Deposit Insurance
 11 Corporation or its successor.

12 ~~(26)~~ (27) Without the approval of the department, to the extent
 13 authorized by the board of directors of the savings association,
 14 establish or maintain agencies that:

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

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

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

25 SECTION 26. IC 28-15-16 IS ADDED TO THE INDIANA CODE
 26 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2003]:

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

29 **Sec. 1. For purposes of this article, a savings association that is**
 30 **not a member of the Federal Reserve System is subject to Sections**
 31 **23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1)**
 32 **to the same extent and in the same manner as if the savings**
 33 **association were a member of the Federal Reserve System.**

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

37 SECTION 27. [EFFECTIVE UPON PASSAGE] **This act does not**
 38 **affect:**

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

40 (2) **penalties incurred;**

41 (3) **crimes committed; or**

42 (4) **proceedings begun;**



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1 **before the effective date of this act. Those rights, liabilities,**
2 **penalties, crimes, and proceedings continue and shall be imposed**
3 **under prior law as if this act had not been enacted.**
4 SECTION 28. An emergency is declared for this act.

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