

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1834**

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

**Synopsis:** Financial institutions. Conference committee report for EHB 1834. Changes the date as of which reference is made to federal laws and regulations. Reduces bond requirements for payday lenders. Defines "month" in the pawnbroker act to ensure consistent calculation of interest. Specifically provides for the right of credit unions to buy and sell assets. Provides for the release of information to state and federal supervisory agencies, federal law enforcement agencies, and federal prosecutorial agencies or offices. Authorizes the department of financial institutions to remove officers, directors, and employees of financial institutions for certain practices, violations, and breaches. Allows the department to make certain final orders public. Requires department approval for reductions in capital stock, capital surplus, and preferred stock levels. Modifies provisions concerning the establishment of trust offices. Prohibits the unauthorized use of: (1) the term banc or banco; and (2) the name of an existing bank or bank holding company or a name confusingly similar to the name of an existing bank or bank holding company. Treats savings associations and savings banks as though they are members of the Federal Reserve System even if they are not members. Requires approval of the department prior to establishing a subsidiary. Modifies the change of control statute. Broadens the ability of banks to invest in Federal Home Loan Bank stock while maintaining a ceiling on such investments. Makes technical corrections. **(This conference committee report provides for the release of information to state and federal supervisory agencies, federal law enforcement agencies, and federal prosecutorial agencies or offices.)**

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

# CONFERENCE COMMITTEE REPORT

**MR. PRESIDENT:**

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

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

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

1 (g) to make uniform the law including administrative rules among  
2 the various jurisdictions.

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

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

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

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

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

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

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

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

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

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

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

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

51 (C) the department has been unable to complete the investigation

1 of the corporation, individual, or individuals, who propose to  
 2 acquire control because of any delay caused by or the inadequate  
 3 cooperation of the corporation, individual, or individuals.

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

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

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

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

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

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

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

30 (f) The president or other chief executive officer of a financial  
 31 institution **or holding company** shall report to the director of the  
 32 department any transfer or sale of shares of stock of the financial  
 33 institution **or holding company** that results in direct or indirect  
 34 ownership by a stockholder or an affiliated group of stockholders of at  
 35 least ten percent (10%) of the outstanding stock of the financial  
 36 institution **or holding company**. The report required by this section  
 37 must be made not later than ten (10) days after the transfer of the shares  
 38 of stock on the books of the financial institution **or holding company**.

39 SECTION 5.IC 28-1-11-12.5 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 41 1, 2003]: **Sec. 12.5. Subject to any limitations imposed by the**  
 42 **department through policy, a bank or trust company may do any**  
 43 **of the following:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

49           (g) Notwithstanding subsection (a), a bank holding company (as  
 50           defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a  
 51           part of its name. However, this subsection does not permit a bank

1 holding company to advertise or represent itself to the public as  
 2 affording the services or performing the duties that by law a bank or  
 3 trust company only is entitled to afford and perform.

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

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

25 (j) A person, firm, limited liability company, or corporation who  
 26 violates this section is subject to a penalty of ~~two~~ **five** hundred dollars  
 27 ~~(\$200)~~ **(\$500)** per day for each and every day during which the  
 28 violation continues. The penalty imposed shall be recovered in the  
 29 name of the state on relation of the department and, when recovered,  
 30 shall be paid into the financial institutions fund established by  
 31 IC 28-11-2-9.

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

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

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

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

44 **(A) originated from;**

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

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

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

48 **(m) An existing bank or bank holding company may, in addition**  
 49 **to any other remedies available under the law, report an alleged**  
 50 **violation of subsection (l) to the department. If the department**  
 51 **finds that the marketing material or solicitation in question is in**

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

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

15 **(1) originated from;**

16 **(2) is endorsed by; or**

17 **(3) is in any other way the responsibility of;**

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

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

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

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

34 (1) receive deposits;

35 (2) pay checks; or

36 (3) lend money;

37 at the trust office.

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

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

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

47 (3) Borrow money from:

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

49 (B) the Federal Deposit Insurance Corporation; or

50 (C) any other corporation.

51 (4) Transfer, assign to, and pledge with a bank described in

1 subdivision (2), the Federal Deposit Insurance Corporation, or  
 2 other corporation, any of the bonds, notes, contracts, mortgages,  
 3 securities, or other property of the savings bank held or acquired,  
 4 as security for the payment of loans entered into under subdivision  
 5 (3).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 discharge and performance of its duties; and  
 2 (C) unless otherwise agreed upon, interest at the legal rate on the  
 3 advances referred to in clause (B).

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

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

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

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

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

23 "Department" means the department of financial institutions.

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

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

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

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

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

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

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

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

47 (c) If a pawnbroker charges or receives interest in excess of that  
 48 provided in this section, or makes any charges not authorized by this  
 49 chapter, the pawnbroker shall forfeit principal and interest and return  
 50 the pledge upon demand of the pledger and surrender of the pawn  
 51 ticket without the principal or interest. If such excessive or

1 unauthorized charges have been paid by the pledger, the pledger may  
2 recover the same, including the principal if paid, in a civil action  
3 against the pawnbroker.

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

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

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

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

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

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

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

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

44 (2) The state, a political subdivision of the state, or an  
45 instrumentality of the state or of a political subdivision of the state.

46 (3) A bank, a bank holding company, an industrial loan and  
47 investment company, a credit union, a savings association, a  
48 savings bank, a mutual bank, or a mutual savings bank organized  
49 under the laws of any state or the United States.

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

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

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

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

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

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

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

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

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

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

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

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

- 48 ~~(A)~~ **(1) committed a violation of a statute, a rule, or a final cease**  
 49 **and desist order, any condition imposed in writing by the**  
 50 **director in connection with the grant of any application or**  
 51 **other request by the financial institution, or any written**

1 **agreement between the financial institution and the director;**  
 2 ~~(B)~~ **(2)** engaged or participated in an unsafe or unsound practice in  
 3 connection with the financial institution;  
 4 ~~(C)~~ **(3)** committed or engaged in an act, an omission, or a practice  
 5 that constitutes a breach of fiduciary duty as director, ~~or~~ officer, **or**  
 6 **employee;** or  
 7 ~~(D)~~ **(4)** been charged in a complaint, an indictment, or an  
 8 information with the commission of or participation in a crime  
 9 involving dishonesty or breach of trust that is punishable by  
 10 imprisonment for a term exceeding one (1) year under federal law  
 11 or the law of a state; ~~and~~

12 ~~(2)~~ **either:**

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

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

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

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

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

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

31 ~~(b)~~

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

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

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

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

39 (1) felony; or

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

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

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

50 SECTION 20. IC 28-11-4-4 IS AMENDED TO READ AS  
 51 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued

- 1 under this chapter must: ~~do the following:~~
- 2 (1) contain a statement of the facts constituting the alleged
- 3 practice, violation, or act:
- 4 (2) ~~Fix a time and place at which a hearing will be held by the~~
- 5 ~~department to determine whether a final order under section 7 of~~
- 6 ~~this chapter should be issued:~~
- 7 (b) ~~The hearing shall be fixed for a date:~~
- 8 (1) ~~not earlier than thirty (30) days; and~~
- 9 (2) ~~not later than one hundred twenty (120) days;~~
- 10 ~~after service of the notice. However, at the request of the party to whom~~
- 11 ~~the notice is issued, the department may fix the hearing for a date~~
- 12 ~~specified in the request: breach;~~
- 13 (2) **state the facts alleged in support of the violation, practice,**
- 14 **or breach;**
- 15 (3) **state the director's intention to enter an order under section**
- 16 **3(a) of this chapter;**
- 17 (4) **be delivered to the board of directors of the financial**
- 18 **institution;**
- 19 (5) **be delivered to the officer, director, or employee concerned;**
- 20 **and**
- 21 (6) **specify the procedures that must be followed to initiate a**
- 22 **hearing to contest the facts alleged.**
- 23 (b) **If a hearing is requested within ten (10) days after service of**
- 24 **the written notice, the director or designee of the director shall**
- 25 **hold a hearing concerning the alleged practice, violation, or**
- 26 **breach. The hearing shall be held not later than forty-five (45) days**
- 27 **after receipt of the request. The director or designee of the**
- 28 **director, based on the evidence presented at the hearing, shall**
- 29 **enter:**
- 30 (1) **a final order under section 7 of this chapter for the**
- 31 **immediate removal of the officer, director, or employee**
- 32 **affected;**
- 33 (2) **a final order under section 7 of this chapter prohibiting**
- 34 **further participation by the officer, director, or employee, in**
- 35 **any manner, in the conduct of affairs of any financial**
- 36 **institution;**
- 37 (3) **a final order consisting of both an order described in**
- 38 **subdivision (1) and an order described in subdivision (2);**
- 39 (4) **a reprimand of the individuals, entities, or other persons**
- 40 **concerned; or**
- 41 (5) **a dismissal of the entire matter.**
- 42 (c) **If no hearing is requested within the time specified in**
- 43 **subsection (b), the director may proceed to issue a final order**
- 44 **described in subsection (b)(1), (b)(2), or (b)(3) on the basis of the**
- 45 **facts set forth in the written notice.**
- 46 (d) **An officer, director, or employee who is removed from a**
- 47 **position under a removal order that has become final may not**
- 48 **participate in the conduct of the affairs of any financial institution**
- 49 **without the approval of the director.**
- 50 (e) **The director may, for the protection of the financial**
- 51 **institution or the interests of its depositors, suspend from office or**

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

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

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

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

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

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

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

41 (b) A temporary order may

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

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

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

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

4 SECTION 23. IC 28-11-4-7 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If ~~upon the record~~  
 6 ~~made at a hearing under this chapter~~ the department finds that the  
 7 conditions specified in section 2 or 3 of this chapter have been  
 8 established, the department may issue a final order.

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

14 (c) A final order may do any of the following:

15 (1) Require the financial institution and its directors, officers,  
 16 employees, and agents to do any of the following:

17 (A) Cease and desist from the practice or violation.

18 (B) Take affirmative action to correct the conditions resulting  
 19 from the practice or violation.

20 (2) **Permanently remove Suspend or prohibit** a director, ~~or an~~  
 21 ~~officer, or an employee from participating in the affairs of a~~  
 22 **financial institution or subsidiary.**

23 (3) Impose a civil penalty not to exceed the amount specified in  
 24 section 9 of this chapter.

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

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

34 SECTION 24. IC 28-12-11-1 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section  
 36 applies only to a corporation that is any of the following:

37 (1) A bank and trust company.

38 (2) A bank.

39 (3) A stock savings bank.

40 (b) The department shall determine the minimum amount of the  
 41 capital ~~stock~~ of a corporation organized or reorganized under this title  
 42 after giving consideration to the potential deposit liability to be  
 43 anticipated in the case of a proposed new corporation, or the existing  
 44 deposit liability of a corporation to be reorganized.

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

51 SECTION 26. IC 28-13-4-5 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A ~~bank, trust~~  
 2 ~~company, or corporate fiduciary corporation~~ may not declare or pay  
 3 any dividends to its shareholders in any form if, by the payment of the  
 4 dividends, its capital stock will be thereby impaired.

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

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

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

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

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

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

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

- 46 (1) Quality of management.
- 47 (2) Liquidity of assets.
- 48 (3) History of earnings and the retention of earnings.
- 49 (4) Quality and character of ownership.
- 50 (5) Burden of occupancy expenses.
- 51 (6) Quality of operating procedures.

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

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

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

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

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

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

- 25 (1) Accept deposit accounts.
- 26 (2) Issue evidence of deposit account ownership.
- 27 (3) Declare and distribute earnings to members.
- 28 (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- 29 (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and  
30 12 CFR 32:

31 (A) Make loans to members on the security of deposit accounts.

32 (B) Make property improvement loans.

33 (C) Make other loans as provided under IC 28-15-8.

34 (D) Make mortgage loans.

35 (E) Accept additional collateral on mortgage loans.

36 (F) Purchase and sell loans.

37 (G) Negotiate loan servicing agreements.

38 (H) Purchase and sell participating interests in loans.

39 (I) Issue letters of credit with specific expiration dates.

40 (J) Make secured or unsecured loans, which are partially insured  
41 or guaranteed in any manner by any state of the United States,  
42 the United States government, or any of its agencies or  
43 government sponsored enterprises.

44 (K) Purchase commercial paper that is denominated in United  
45 States currency and rated by at least one (1) nationally  
46 recognized investment rating service in one (1) of the two (2)  
47 highest grades.

48 (L) Make, purchase, or participate in alternative mortgage loans  
49 as provided in IC 28-15-11.

50 (6) Acquire and sell real estate in satisfaction of debts previously  
51 contracted.

- 1 (7) Acquire real estate for the convenient transaction of its  
 2 business. A savings association has the same powers under this  
 3 subdivision as a bank or trust company has under IC 28-1-11-5.
- 4 (8) Notwithstanding any other law, establish, maintain, or relocate  
 5 one (1) or more branch offices by following the provisions of  
 6 IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association  
 7 were a bank.
- 8 (9) Become a member in any agency or instrumentality of the  
 9 federal government. For the purposes of this subdivision,  
 10 membership in an agency or instrumentality of the federal  
 11 government may include:
- 12 (A) purchasing stock;  
 13 (B) purchasing notes and debentures; or  
 14 (C) borrowing money.
- 15 **(10) Subject to any limitations imposed by the department  
 16 through policy:**
- 17 **(A) invest the money deposited in the savings association in  
 18 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 **(B) become a member of the federal home loan bank of the  
 22 district in which Indiana is located or an adjoining district;**
- 23 **(C) borrow money from:**
- 24 **(i) a federal home loan bank described in clause (B);**  
 25 **(ii) the Federal Deposit Insurance Corporation; or**  
 26 **(iii) any other corporation;**
- 27 **(D) transfer, assign to, and pledge with a federal home loan  
 28 bank described in clause (B), the Federal Deposit Insurance  
 29 Corporation, or any other corporation any of the bonds,  
 30 notes, contracts, mortgages, securities, or other property of  
 31 the savings association held or acquired as security for the  
 32 payment of loans entered into under clause (C); and**
- 33 **(E) exercise all rights, powers, and privileges conferred upon,  
 34 and do all things and perform all acts required of, members  
 35 or shareholders of a federal home loan bank by the Federal  
 36 Home Loan Bank Act (12 U.S.C. 1421 through 1449).**
- 37 **(11) Subject to the provisions and restrictions of 12 U.S.C. 24 and  
 38 12 CFR 1, invest in the following types of securities:**
- 39 (A) Bonds, notes, certificates, and other valid obligations of the  
 40 United States government or any agency of the United States  
 41 government.
- 42 (B) Accounts offered by federally insured banks, savings banks,  
 43 and savings associations.
- 44 (C) Bonds, notes, or other evidences of indebtedness that are  
 45 general obligations supported by the full faith and credit of any  
 46 state in the United States or any city, town, or other political  
 47 subdivision in any state in the United States if the obligations  
 48 have been assigned one (1) of the four (4) highest grades by a  
 49 nationally recognized investment rating service.
- 50 (D) Shares of stock of a subsidiary that does not exercise a  
 51 power or engage in any activity that is not authorized for the

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

- 1 (A) are incidental and proper; or  
 2 (B) may be necessary and usual;  
 3 in carrying on the business of the savings association.  
 4 ~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the  
 5 buildings, and lease the buildings for public purposes to municipal  
 6 corporations or other public authorities that have resources  
 7 sufficient to make payment of all rentals as they become due. Each  
 8 lease agreement entered into under this subdivision must provide  
 9 that, upon expiration, the lessee will become the owner of the  
 10 building.  
 11 ~~(23)~~ **(24)** Open or establish automated teller machines at any  
 12 location. An automated teller machine opened or established under  
 13 this subdivision may be owned and operated individually or jointly  
 14 on a cost sharing or fee basis.  
 15 ~~(24)~~ **(25)** Act:  
 16 (A) in any fiduciary capacity in which a bank or trust company  
 17 is permitted to act under this title; and  
 18 (B) as an agent for the sale of real estate, without bond or other  
 19 security.  
 20 ~~(25)~~ **(26)** Accept and maintain demand deposit accounts if the  
 21 savings association is insured by the Federal Deposit Insurance  
 22 Corporation or its successor.  
 23 ~~(26)~~ **(27)** Without the approval of the department, to the extent  
 24 authorized by the board of directors of the savings association,  
 25 establish or maintain agencies that:  
 26 (A) only service and originate, but do not approve, loans and  
 27 contracts; or  
 28 (B) manage or sell real estate owned by the savings association.  
 29 An agency established or maintained under this subdivision may  
 30 offer any services not referred to in this subdivision with the  
 31 approval of the department, except for accepting payment on  
 32 savings accounts. An agency shall maintain records of all business  
 33 it transacts and transmit copies to a branch or home office of the  
 34 savings association.  
 35 SECTION 31. IC 28-15-16 IS ADDED TO THE INDIANA CODE  
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2003]:  
 38 **Chapter 16. Applicability of the Federal Reserve Act**  
 39 **Sec. 1. For purposes of this article, a savings association that is**  
 40 **not a member of the Federal Reserve System is subject to Sections**  
 41 **23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1)**  
 42 **to the same extent and in the same manner as if the savings**  
 43 **association were a member of the Federal Reserve System.**  
 44 **Sec. 2. A violation of Section 23A or 23B of the Federal Reserve**  
 45 **Act (12 U.S.C. 371c or 371c-1) by a savings association or a**  
 46 **subsidiary constitutes a violation of this chapter.**  
 47 SECTION 32. [EFFECTIVE UPON PASSAGE] **This act does not**  
 48 **affect:**  
 49 **(1) rights or liabilities accrued;**  
 50 **(2) penalties incurred;**  
 51 **(3) crimes committed; or**

1           **(4) proceedings begun;**  
2           **before the effective date of this act. Those rights, liabilities,**  
3           **penalties, crimes, and proceedings continue and shall be imposed**  
4           **under prior law as if this act had not been enacted.**

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

6           (Reference is to EHB 1834 as reprinted April 8, 2003.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1834**

**S**igned by:

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Representative Bardon  
Chairperson

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Senator Paul

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Representative Burton

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Senator Lewis

**House Conferees**

**Senate Conferees**