HOUSE BILL No. 1185

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9-3-4; IC 4-4-10.9-13; IC 4-10-10-1; IC 4-22-2-37.1; IC 5-1.4-3-4; IC 5-1.5-3-4; IC 5-13-4-4; IC 5-13-4-10; IC 5-20-2-2; IC 6-5-11-1; IC 6-8-11-12; IC 8-15-1-2; IC 15-7-4.9-10; IC 20-12-21.1-1; IC 21-6.1-5-9.5; IC 23-2; IC 23-5-1-8; IC 23-6-4-3; IC 23-14-33-19; IC 24-5-15-2; IC 26-1; IC 27-1-25-1; IC 27-8-19.8-5; IC 27-10-3-12; IC 28-1; IC 28-2; IC 28-3-3-1; IC 28-5-1-6; IC 28-5-1-25; IC 28-6.1; IC 28-6.2-5-1; IC 28-7-1-17; IC 28-8-4-1; IC 28-9-2-6; IC 28-10-1-3; IC 28-10-1-4; IC 28-11-5-1; IC 28-12-11-3; IC 28-13-4-8; IC 28-13-6-2; IC 28-13-6-6; IC 30-2; IC 30-5-5-5; IC 32-1-6-22; IC 32-2-1.5-2; IC 32-9-1.5-6; IC 32-9-1.5-7.5; IC 33-16-2-7; IC 33-20-3-4; IC 34-2-34-2; IC 35-41-1-5; IC 35-43-5-12; IC 36-2-10-19; IC 36-7-18-19; IC 36-8-7-10; IC 36-9-27-97.5; IC 36-10-9-21.

Synopsis: Financial institutions. Fulfills the statutory requirement of P.L.193-1997 that references throughout the Indiana Code be changed from (1) building and loan association; (2) savings and loan association; (3) rural loan and savings association; (4) guaranty loan

(Continued next page)

Effective: July 1, 1998.

Tabaczynski

January 8, 1998, read first time and referred to Committee on Financial Institutions.

C o p y

Digest Continued

and savings association; (5) mutual association; and (6) stock association, to savings association. Fulfills the statutory requirement of P.L.193-1997 that conforming changes be made regarding savings associations. Defines association as a building and loan association, rural and loan association, or guaranty loan and savings association organized under Indiana law before June 30, 1997, for purposes of the savings and loan association tax. Eliminates obsolete references to nonexistent rural and loan associations and guaranty loan and savings associations. Replaces a reference to a chapter on adjustable rate mortgages repealed by P.L.193-1997 that allowed savings associations to make renegotiable rate mortgage loans, with a reference to the alternative mortgage loan authority for savings associations. Allows the articles of incorporation of a mutual savings association to provide for alternative voting methods. Makes technical corrections. Repeals a nonconforming section.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1185

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:

SECTION 1. IC 3-9-3-4, AS AMENDED BY P.L.3-1995, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) Money received by a candidate or committee as a contribution may be used only:

(1) to defray any expense reasonably related to the person's or committee's:

(A) campaign for federal, state, legislative, or local office;

(B) continuing political activity; or

(C) activity related to service in an elected office;

(2) to make an expenditure to any national, state, or local committee of any political party or another candidate's committee; or

(3) upon dissolution of a committee, in a manner permitted under IC 3-9-1-12.

(b) Money received by a candidate or committee as a contribution

may not be used for primarily personal purposes by the candidate or by any other person except as described in subsection (a).

(c) Money received as a contribution may be invested by a committee in an account with a financial institution, savings ~~and loan~~ association, or credit union, or in any equity account. Any loss resulting from an investment under this subsection must be reported as a committee expenditure. Any gain resulting from an investment under this subsection must be reported as income.

SECTION 2. IC 4-4-10.9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. "Lender" when used in connection with the multiple project program means any federal or state chartered bank, Federal Land Bank, production credit association, bank for cooperatives, savings ~~and loan~~ association, ~~building and loan association,~~ small business investment company, or any other institution qualified within the state to originate and service loans, such as insurance companies, credit unions, and mortgage loan companies.

SECTION 3. IC 4-10-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. All warrants drawn by the auditor of the state of Indiana upon funds in custody of the treasurer of said state and all checks authorized by law to be issued from funds in custody of any other state agency, as hereinafter defined, which such warrants or checks have been or may hereafter be outstanding and unpaid for a period of two (2) or more years as of the last day of December of each year shall be declared canceled. No individual, bank, trust company, ~~building and loan~~ **savings** association or any other financial institution shall honor, cash or accept for payment or deposit any such state warrant or any check issued on any account belonging to the state of Indiana which may be presented for payment and which has been issued and outstanding for a period of two (2) or more years as of the last day of December of any year.

SECTION 4. IC 4-22-2-37.1, AS AMENDED BY P.L.27-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the

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occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcoholic beverage commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

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~~(19) An emergency rule adopted by the department of financial institutions under~~ IC ~~28-1-21.5-5.4.~~

~~(20)~~ **(19)** An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be

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adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 5. IC 5-1.4-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The bank may not:

(1) purchase securities other than from a qualified entity or other than for investment under section 3 of this chapter;

(2) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States, of the state, or of any other state or jurisdiction, domestic or foreign, except as authorized in this article;

(3) emit bills of credit, accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank, savings ~~and loan~~ association, or any other kind of financial institution;

(4) engage in any form of private or commercial banking business; or

(5) purchase securities from a qualified entity located in a county other than the county in which the bank is located.

SECTION 6. IC 5-1.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. The bank may not:

(1) lend money other than to a qualified entity;

(2) purchase securities other than:

(A) a security to which a qualified entity is a party as issuer, borrower, or lessee; or

(B) an investment under section 3 of this chapter;

(3) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in this article;

(4) emit bills of credit, or accept deposits of money for time or

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demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings ~~and loan~~ association, or any other kind of financial institution; or

(5) engage in any form of private or commercial banking business.

SECTION 7. IC 5-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. "Closed depository" includes:

(1) a financial institution the business and property of which the department of financial institutions has taken possession of under IC 28-1-3.1 for the purpose of liquidation;

(2) a financial institution the business and property of which the department of financial institutions has authorized the institution to liquidate under IC 28-1-9 and IC 28-7-1-27.1; and

(3) any national banking association, federal savings ~~and loan~~ association, or federally chartered savings bank for the business and property of which a receiver has been appointed.

SECTION 8. IC 5-13-4-10, AS AMENDED BY P.L.18-1996, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. "Financial institution" means any of the following:

(1) A bank, trust company, or mutual savings bank that:

(A) was incorporated under the law of Indiana or any other state; and

(B) has its principal office or a branch in Indiana.

(2) A national banking association with its principal office or a branch in Indiana.

(3) A ~~building and loan~~ **savings** association operating as a deposit association incorporated under Indiana law.

(4) A federally chartered savings ~~and loan~~ association with its principal office or a branch in Indiana.

(5) A federally chartered savings bank with its principal office or a branch in Indiana.

(6) A state chartered credit union in Indiana that is federally insured or privately insured and that has assets of three million dollars ($3,000,000) or more.

SECTION 9. IC 5-20-1-2, AS AMENDED BY P.L.1-1997, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this chapter:

"Assisted" means, with respect to a loan:

(1) the payment by the United States or any duly authorized agency thereof of assistance payments, interest payments, or

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mortgage reduction payments with respect to such loan; or

(2) the provision of insurance, guaranty, security, collateral, subsidies, or other forms of assistance or aid acceptable to the authority for the making, holding, or selling of a loan from the United States, any duly authorized agency thereof, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing finance authority created under this chapter.

"Bonds" or "notes" means the bonds or notes authorized to be issued by the authority under this chapter.

"Development costs" means the costs approved by the authority as appropriate expenditures and credits which may be incurred by sponsors, builders, and developers of residential housing prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

(1) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the authority, payments for the purchase of such properties;

(2) legal, organizational, and marketing expenses, including payments of attorney's fees, project manager, clerical, and other incidental expenses;

(3) payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(4) expenses for surveys as to need and market analyses;

(5) necessary application and other fees;

(6) credits allowed by the authority to recognize the value of service provided at no cost by the sponsors, builders, or developers; and

(7) such other expenses as the authority deems appropriate for the purposes of this chapter.

"Governmental agency" means any department, division, public agency, political subdivision, or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

"Construction loan" means a loan to provide interim financing for the acquisition or construction of single family residential housing, including land development.

"Mortgage" or "mortgage loan" means a loan to provide permanent financing for:

(1) the rehabilitation, acquisition, or construction of single family residential housing, including land development; or

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(2) the weatherization of single family residences.

"Mortgage lender" means a bank, trust company, savings bank, savings ~~and loan~~ association, credit union, national banking association, federal savings ~~and loan~~ association or federal credit union maintaining an office in this state, a public utility (as defined in IC 8-1-2-1), a gas utility system organized under IC 8-1-11.1, an insurance company authorized to do business in this state, or any mortgage banking firm or mortgagee authorized to do business in this state and approved by either the authority or the Department of Housing and Urban Development.

"Land development" means the process of acquiring land primarily for residential housing construction for persons and families of low and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction.

"Obligations" means any bonds or notes authorized to be issued by the authority under this chapter.

"Persons and families of low and moderate income" means persons and families of insufficient personal or family income to afford adequate housing as determined by the standards established by the authority, and in determining such standards the authority shall take into account the following:

(1) The amount of total income of such persons and families available for housing needs.

(2) The size of the family.

(3) The cost and condition of housing facilities available in the different geographic areas of the state.

(4) The ability of such persons and families to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

The standards shall, however, comply with the applicable limitations of section 4(b) of this chapter.

"Residential facility for children" means a facility:

(1) that provides residential services to individuals who are:

(A) under twenty-one (21) years of age; and

(B) adjudicated to be children in need of services under IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children under IC 31-37 (or IC 31-6-4 before its repeal); and

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(2) that is:

(A) a child caring institution that is or will be licensed under IC 12-17.4;

(B) a residential facility that is or will be licensed under IC 12-28-5; or

(C) a facility that is or will be certified by the division of mental health under IC 12-23.

"Residential facility for the developmentally disabled" means a facility that is approved for use in a community residential program for the developmentally disabled under IC 12-11-2-1(1), IC 12-11-2-1(2), or IC 12-11-2-1(3).

"Residential facility for the mentally ill" means a facility that is approved by the division of mental health for use in a community residential program for the mentally ill under IC 12-22-2-3(1), IC 12-22-2-3(2), IC 12-22-2-3(3), or IC 12-22-2-3(4).

"Residential housing" means a specific work or improvement undertaken primarily to provide single or multiple family housing for rental or sale to persons and families of low and moderate income, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements thereto, and such other nonhousing facilities as may be incidental or appurtenant thereto.

"Sponsors", "builders", or "developers" means corporations, associations, partnerships, limited liability companies, or other entities and consumer housing cooperatives organized pursuant to law for the primary purpose of providing housing to low and moderate income persons and families.

"State" means the state of Indiana.

"Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(1) Counseling on household management, housekeeping, budgeting, and money management.

(2) Child care and similar matters.

(3) Access to available community services related to job training and placement, education, health, welfare, and other community services.

(4) Guard and other matters related to the physical security of the housing residents.

(5) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management, and maintenance.

(6) Physical improvements of the housing, including buildings,

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recreational and community facilities, safety measures, and removal of code violations.

(7) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs.

(8) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices either in general or in relation to an individual or family.

SECTION 10. IC 5-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this chapter, each of the following shall have the meaning indicated unless a different meaning clearly appears from the context:

(1) "Bonds" means the revenue bonds authorized to be issued under this chapter and includes notes and any and all other limited obligations of a county or municipality payable as provided in this chapter.

(2) "Executive officer" of a county, city, or town has the meaning set forth in IC 36-1-2-5.

(3) "Governing body" of a county, city, or town has the meaning set forth in IC 36-1-2-9.

(4) "Home" means real property and improvements thereon constructed for human habitation, located within the county or municipality, consisting of not more than four (4) units, and owned by one (1) mortgagor who occupies or intends to occupy one (1) of such units.

(5) "Home mortgage" means an interest bearing loan for not to exceed thirty (30) years to a mortgagor for the purpose of purchasing or improving a home, evidenced by a promissory note and secured by a mortgage on this home, but shall not include a loan primarily for the purpose of refinancing an existing loan.

(6) "Lending institution" means any bank, trust company, savings bank, national banking association, savings ~~and loan association, building and loan~~ association, mortgage banker, or other financing institution or governmental agency which customarily provides service or otherwise aids in the financing of mortgages on single family residential housing or multifamily residential housing, which institution, for a county, is located in that county, and for a municipality is located in the county in which the municipality is located, or any holding company for any of the foregoing.

(7) "Mortgagor" means an individual, or two (2) or more

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individuals acting together, who have received a home mortgage under this chapter.

(8) "Recording officer" means the clerk or clerk-treasurer of a county or municipality.

(9) "Municipality" means a city or town.

SECTION 11. IC 6-5-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter:

"Assessed value" means assessed value as defined in IC 6-1.1-1-3.

"Bank" means a:

(1) bank, trust company, savings bank, bank of discount and deposit, or loan and trust and safe deposit company organized under the law of this state; or

(2) national banking association organized under the law of the United States and engaged in business in this state.

The term "bank" does not include an international banking facility.

"Department" means the department of state revenue.

"Deposit" means money that is deposited in a bank, that is evidenced by any means, and that may be withdrawn, on demand or otherwise, by:

(1) the owner of the money;

(2) the trustee of the money; or

(3) a person who has a beneficial interest in the money.

"Deposits of another financial institution" means deposits that are owned by and may be withdrawn by another bank, a ~~building and loan~~ **savings** association, or an international banking facility located in Indiana.

"International banking facility" means an international banking facility as defined in Regulation D of the Board of Governors of the Federal Reserve System (12 CFR 204).

"Liquidating agent" means a person, an official, or a department that is in charge of the assets of a bank that has ceased business.

"Nonresident deposit" means a deposit that:

(1) is owned by a person, firm, limited liability company, or corporation that resides or is domiciled outside Indiana; and

(2) does not have a business situs in Indiana.

"Public deposit" means a deposit that is owned by and may be withdrawn by:

(1) this state;

(2) a political subdivision of this state;

(3) an agency of this state;

(4) the United States; or

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(5) a department, an agency, or an instrumentality of the United States.

"Taxable deposits" means taxable deposits as defined in section 2 of this chapter.

"Taxable shares" means the capital, surplus, and undivided profits of a bank minus the assessed value of all real estate that is owned by the bank or leased by the bank and used for banking purposes.

"Taxable surplus and profits" means the total surplus and undivided profits of a savings bank minus the assessed value of all real estate owned by the savings bank or leased by the savings bank and used for banking purposes.

"Taxpayer" means an entity that is liable for the tax imposed under this chapter.

SECTION 12. IC 6-5-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter:

"Association" means an entity **organized under IC 28-4 (before its repeal) that was** engaged in business in this state **on June 30, 1997,** ~~that is~~ **as** a:

(1) building and loan association;

(2) rural loan and savings association; or

(3) guaranty loan and savings association.

"Nonresident shareholder" means an individual, firm, limited liability company, or corporation that resides or is domiciled outside Indiana and that owns investment shares that do not have a business situs in Indiana.

"Surplus" means a sinking fund established to provide against contingent losses, undivided profits, or any surplus fund, regardless of name.

"Taxing district" means a geographical area within which property is taxed by the same taxing units at the same total rate.

"Taxing unit" means an entity that has the power to impose ad valorem property taxes.

SECTION 13. IC 6-8-11-12, AS ADDED BY P.L.93-1995, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. The following may be an account administrator under this chapter:

(1) A federal or state chartered:

(A) bank;

(B) savings ~~and loan~~ association;

(C) savings bank; or

(D) credit union.

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(2) A trust company authorized to act as a fiduciary.

(3) An insurance company or health maintenance organization authorized to do business in Indiana under IC 27.

(4) A broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) A person:

(A) that holds a certificate of registration as an insurance administrator; or

(B) for whom the insurance commissioner has waived the requirement of a certificate of registration as an insurance administrator;

under IC 27-1-25-11.

(6) An employee welfare benefit plan that is governed by the federal Employee Retirement Income Security Act, 29 U.S.C. 1001 et seq.

(7) An employer that participates in the medical care savings account program.

SECTION 14. IC 8-15-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. "Financial institutions" as used herein means and includes any bank or trust company, ~~building and loan association,~~ credit union, bank of discount and deposit, savings bank, loan and trust and safe deposit company, trust company, ~~rural loan and~~ savings association, ~~guaranty loan and savings association,~~ mortgage guaranty company, and small loan company organized under any law of the state of Indiana.

"Insurance company" as used herein means and includes any stock, mutual, reciprocal, assessment or fraternal benefit company or society writing any life, fire, livestock, casualty, health, hospital, accident or bonding insurance or reinsurance, which company or society is organized under the laws of the state of Indiana.

"Trust fund" as used herein shall be limited to private trust funds.

SECTION 15. IC 15-7-4.9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. "Lender" means:

(1) a federal or state chartered bank;

(2) the Federal Land Bank;

(3) a production credit association;

(4) bank for cooperatives;

(5) a savings ~~and loan~~ association;

~~(6) a building and loan association;~~

~~(7)~~ **(6)** a small business investment company; or

~~(8)~~ **(7)** an institution qualified within Indiana to originate and service loans, including an insurance company, credit union, or

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mortgage loan company.

SECTION 16. IC 20-12-21.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) "Approved lender" means:

(1) any qualified institution; or

(2) any bank, trust company, ~~building and loan~~ **savings** association, credit union, or other entity as described in 20 U.S.C. 1085(d) whose primary consumer credit function is not the making of guaranteed student loans and which is examined and supervised by the appropriate state or federal regulatory agency.

(b) "Commission" means the student assistance commission established under IC 20-12-21-4.

(c) "Guaranteed student loans" means loans issued by approved lenders to students or either one (1) or both parents of students pursuant to state and federal law.

(d) "Half-time students" means certificate, diploma, associate, baccalaureate, graduate or professional students enrolled in courses sufficient for them to be considered half-time by the institution.

(e) "Qualified institution" means any post-secondary educational institution which is approved by the commission for the purposes of this chapter. However, an institution offering exclusively correspondence or home study courses is not a qualified institution.

(f) "Resident" means a United States citizen or alien who is admitted into the United States for lawful, permanent residence and who:

(1) attends a qualified institution in Indiana;

(2) lives in Indiana and attends a qualified institution outside Indiana;

(3) lives outside Indiana and attends a qualified institution outside Indiana, but who:

(A) previously was a resident described in subdivision (1) or (2); and

(B) as a resident had a loan guaranteed by the commission under this chapter;

(4) resides in a county contiguous to the boundary of Indiana; or

(5) resides in a county that the commission approves as being within the servicing area of a participating lender which lender is located in Indiana or in a county contiguous to the boundary of Indiana.

SECTION 17. IC 21-6.1-5-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9.5. (a) A benefit check issued by the fund is canceled if the check is outstanding and unpaid for more than six (6) months after the date the check is issued.

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(b) A benefit check canceled under subsection (a) may not be honored, cashed, or accepted for payment or deposit by an individual, a bank, a trust company, a ~~building and loan~~ **savings** association, or any other financial institution or person.

(c) The cancellation of a benefit check under this section does not discharge the fund's obligation to pay the benefit for which the canceled benefit check was issued.

SECTION 18. IC 23-2-1-2, AS AMENDED BY P.L.169-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) The following securities are exempted from the registration requirements of section 3 of this chapter:

(1) A security (including a revenue obligation) issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one (1) or more of the foregoing or a certificate of deposit for any of the foregoing.

(2) A security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency, or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) A security issued by and representing an interest in or a debt of, or guaranteed by a bank organized under the laws of the United States, a bank, savings institution, or trust company organized and supervised under the laws of a state, a federal savings ~~and loan~~ association, a ~~building and loan or similar~~ **savings** association organized under the laws of a state and authorized to do business in Indiana, a federal credit union or a credit union, industrial loan association, or similar association organized and supervised under the laws of this state, or a corporation or organization whose issuance of securities is required by any other law to be passed upon and authorized by the department of financial institutions or by a federal agency or authority.

(4) A security issued or guaranteed by a railroad or other common or contract carrier, a public utility, or a common or contract carrier or public utility holding company. However, an issuer or guarantor must be subject to regulation or supervision as to the issuance of its own securities by a public commission, board, or officer of the government of the United States, of a state, territory,

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or insular possession of the United States, of a municipality located in a state, territory, or insular possession, of the District of Columbia, or of the Dominion of Canada or a province of Canada.

(5) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, or on any other exchange approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(6) A promissory note, draft, bill of exchange, or banker's acceptance that is evidence of:

(A) an obligation;

(B) a guarantee of an obligation;

(C) a renewal of an obligation; or

(D) a guarantee of a renewal of an obligation;

to pay cash within nine (9) months after the date of issuance, excluding grace days, that is issued in denominations of at least fifty thousand dollars ($50,000) and receives a rating in one (1) of the three (3) highest rating categories from a nationally recognized statistical rating organization.

(7) A security issued in connection with an employee stock purchase, savings, pension, profit-sharing, or similar benefit plan.

(8) A security issued by an association incorporated under IC 15-7-1.

(9) A security that is an industrial development bond (as defined in Section 103(b)(2) of the Internal Revenue Code of 1954) the interest of which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954 if, by reason of the application of paragraph (4) or (6) of Section 103(b) of the Internal Revenue Code of 1954 (determined as if paragraphs (4)(A), (5), and (7) were not included in Section 103(b)), paragraph (1) of Section 103(b) does not apply to the security.

(10) A security issued by a nonprofit corporation that meets the requirements of Section 103(e) of the Internal Revenue Code of 1954 and is designated by the governor as the secondary market for guaranteed student loans under IC 20-12-21.2.

(11) A security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automatic Quotation National Market System or any

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other national market system approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(12) A security that is a "qualified bond" (as defined in Section 141(e) of the Internal Revenue Code, as amended).

(b) The following transactions are exempted from the registration requirements of section 3 of this chapter:

(1) An isolated nonissuer offer or sale, whether effected through a broker-dealer or not.

(2) A nonissuer sale effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy.

(3) A nonissuer offer or sale by a registered broker-dealer, acting either as principal or agent, of issued and outstanding securities if the following conditions are satisfied:

(A) The securities are sold at prices reasonably related to the current market price at the time of sale, and if the registered broker-dealer is acting as agent, the commission collected by the registered broker-dealer on account of the sale is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics.

(B) The securities do not constitute an unsold allotment to or subscription by the broker-dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter.

(C) Either:

(i) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than eighteen (18) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is published in a securities manual approved by the commissioner;

(ii) the issuer is required to file reports with the Securities and Exchange Commission pursuant to sections 13 and 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o) and is not delinquent in the filing of the reports on the date of the sale; or

(iii) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a

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date not more than sixteen (16) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is on file with the commissioner. The information required by this item to be on file with the commissioner must be on a form and made in a manner as the commissioner prescribes. The fee for the initial filing of the form shall be twenty-five dollars ($25). The fee for the annual renewal filing shall be fifteen dollars ($15). When a filing is withdrawn or is not completed by the issuer, the commissioner must retain the filing fee.

(D) There has been compliance with section 6(l) of this chapter.

(E) Unless the issuer is registered under the Investment Company Act of 1940, all the following must be true at the time of the transaction:

(i) The security belongs to a class that has been in the hands of the public for at least ninety (90) days.

(ii) The issuer of the security is a going concern, is actually engaged in business, and is not in bankruptcy or receivership.

(iii) Except as permitted by order of the commissioner, the issuer and any predecessors have been in continuous operation for at least five (5) years. An issuer or predecessor is in continuous operation only if the issuer or predecessor has gross operating revenue in each of the five (5) years immediately preceding the issuer's or predecessor's claim of exemption and has had total gross operating revenue of at least two million five hundred thousand dollars ($2,500,000) for those five (5) years or has had gross operating revenue of at least five hundred thousand dollars ($500,000) in not less than three (3) of those five (5) years.

The commissioner may revoke the exemption afforded by this subdivision with respect to any securities by issuing an order:

(i) if the commissioner finds that the further sale of the securities in this state would work or tend to work a fraud on purchasers of the securities;

(ii) if the commissioner finds that the financial condition of the issuer is such that it is in the public interest and is necessary for the protection of investors to revoke or restrict the exemption afforded by this subsection; or

(iii) if the commissioner finds that, due to the limited

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number of shares in the hands of the public or due to the limited number of broker-dealers making a market in the securities, there is not a sufficient market for the securities so that there is not a current market price for the securities.

(4) A transaction between the issuer or other person on whose behalf the offering is made by an underwriter, or among underwriters.

(5) A transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness, is offered and sold as a unit.

(6) A transaction by an executor, administrator, personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, conservator, or a person acting in a trust or fiduciary capacity where the transaction is effected pursuant to the authority of or subject to approval by a court of competent jurisdiction.

(7) A transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) An offer or sale to a bank, a savings institution, a trust company, an insurance company, an investment company (as defined in the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-52)), a pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity.

(9) The offer or sale of securities of an issuer:

(i) to a person who is:

(A) a director, an executive officer, a general partner, an administrator, or a person who performs similar functions for or who is similarly situated with respect to the issuer;

(B) a director, an executive officer, or a general partner of a general partner of the issuer; or

(C) any other natural person employed on a full-time basis by the issuer as an attorney or accountant if the person has been acting in this capacity for at least one (1) year immediately prior to the offer or sale;

(ii) to an entity affiliated with the issuer;

(iii) if the issuer is a corporation, to a person who is the owner of shares of the corporation or of an affiliated corporation representing and possessing ten percent (10%) or more of the total combined voting power of all classes of stock (of the corporation or affiliated corporation) issued and outstanding

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and who is entitled to vote; or

(iv) if the issuer is a limited liability company, to a person who is the owner of an interest in the limited liability company representing and possessing at least ten percent (10%) of the total combined voting power of all classes of such interests (of the limited liability company or affiliated limited liability company) issued and outstanding.

(10) The offer or sale of a security by the issuer of the security if all of the following conditions are satisfied:

(A) The issuer reasonably believes that either:

(i) there are no more than thirty-five (35) purchasers of the securities from the issuer in an offering pursuant to this subsection, including purchasers outside Indiana; or

(ii) there are no more than twenty (20) purchasers in Indiana.

In either case, there shall be excluded in determining the number of purchasers a purchaser whom the issuer reasonably believes to be an accredited investor or who purchases the securities after they are registered under this chapter.

(B) The issuer does not offer or sell the securities by means of a form of general advertisement or general solicitation.

(C) The issuer reasonably believes that each purchaser of the securities is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on transferability and resale of the securities. The basis for reasonable belief may include:

(i) obtaining a written representation signed by the purchaser that the purchaser is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on the transferability and resale of the securities; and

(ii) placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under section 3 of this chapter, and setting forth or referring to the restrictions on transferability and sale of the securities.

(D) The issuer:

(i) files with the commissioner and provides to each purchaser in this state an offering statement that sets forth all material facts with respect to the securities; and

(ii) reasonably believes immediately before making a sale that each purchaser who is not an accredited investor either

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alone or with a purchaser representative has knowledge and experience in financial and business matters to the extent that the purchaser is capable of evaluating the merits and risks of the prospective investment.

(E) If the aggregate offering price of the securities in an offering pursuant to this subdivision (including securities sold outside of Indiana) does not exceed five hundred thousand dollars ($500,000), the issuer is not required to comply with clause (D) if the issuer files with the commissioner and provides to each purchaser in Indiana the following information and materials:

(i) copies of all written materials, if any, concerning the securities that have been provided by the issuer to any purchaser; and

(ii) unless clearly presented in all written materials, a written notification setting forth the name, address, and form of organization of the issuer and any affiliate, the nature of the principal businesses of the issuer and any affiliate, and the information required in section 5(b)(1)(B), 5(b)(1)(C), 5(b)(1)(D), 5(b)(1)(E), 5(b)(1)(H), and 5(b)(1)(I) of this chapter.

(F) The commissioner does not disallow the exemption provided by this subdivision within ten (10) full business days after receipt of the filing required by clause (D) or (E). The issuer may make offers (but not sales) before and during the ten (10) day period, if:

(i) each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and

(ii) no enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received (directly or indirectly) from a prospective purchaser, before the expiration of the ten (10) day period and the vacation of an order disallowing the exemption.

(G) The issuer need not comply with clause (D), (E), or (F) if:

(i) each purchaser has access to all the material facts with respect to the securities by reason of the purchaser's active involvement in the organization or management of the issuer or the purchaser's family relationship with a person actively involved in the organization or management of the issuer;

(ii) there are not more than fifteen (15) purchasers in Indiana and each Indiana purchaser is an accredited investor or is a

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purchaser described in item (i); or

(iii) the aggregate offering price of the securities, including securities sold outside Indiana, does not exceed five hundred thousand dollars ($500,000), the total number of purchasers, including purchasers outside of Indiana, does not exceed twenty-five (25) and each purchaser either receives all of the material facts with respect to the security or is an accredited investor or a purchaser described in item (i).

(H) If the issuer makes or is required to make a filing with the commissioner under clause (D) or (E), the issuer must also file with the commissioner at the time of the filing the consent to service of process required by section 16 of this chapter. The issuer shall also file with the commissioner, at the times and in the forms as the commissioner may prescribe, notices of sales made in reliance upon this subdivision.

(I) The commissioner may by rule deny exemption provided in this subdivision to a particular class of issuers, or may make the exemption available to the issuers upon compliance with additional conditions and requirements, if appropriate in furtherance of the intent of this chapter.

(11) An offer or sale of securities to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance if no commission or other remuneration (other than a standby commission) is paid or given for soliciting a security holder in this state.

(12) An offer (but not a sale) of a security for which registration statements or applications have been filed under this chapter and the Securities Act of 1933 (15 U.S.C. 77a-77aa), if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending under either law.

(13) The deposit of shares under a voting-trust agreement and the issue of voting-trust certificates for the deposit.

(14) The offer or sale of a commodity futures contract.

(15) The offer or sale of securities to or for the benefit of security holders incident to a vote by the security holders pursuant to the articles of incorporation or applicable instrument, on a merger or share exchange under IC 23-1-40 or the laws of another state, reclassification of securities, exchange of securities under IC 28-1-7.5, or sale of assets of the issuer in consideration of the issuance of securities of the same or another issuer.

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(16) A limited offering transactional exemption, which may be created by rule adopted by the commissioner. The exemption must further the objectives of compatibility with federal exemptions and uniformity among the states.

(c) The commissioner may consider and determine if a proposed sale, transaction, issue, or security is entitled to an exemption accorded by this section. The commissioner may decline to exercise the commissioner's authority as to a proposed sale, transaction, issue, or security. An interested party desiring the commissioner to exercise the commissioner's authority must submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which must be accompanied by a request for a ruling as to the particular exemption claimed, together with a filing fee of one hundred dollars ($100). After notice to the interested parties as the commissioner determines is proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption claimed. An order entered, unless an appeal is taken from it in the manner prescribed in section 20 of this chapter, is binding upon the commissioner and upon all interested parties, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement submitted.

(d) The commissioner may by order deny or revoke an exemption specified in subsection (a)(6), (a)(7), or (b) with respect to a specific security or transaction, if the commissioner finds that the securities to which the exemption applies would not qualify for registration under sections 4 and 5 of this chapter. No order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specific exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the order, and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person

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may be considered to have violated section 3 of this chapter by reason of an offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the order.

(e) If, with respect to an offering of securities, any notices or written statements are required to be filed with the commissioner under subsection (b)(10), the first filing made with respect to the offering must be accompanied by a filing fee of one hundred dollars ($100).

SECTION 19. IC 23-2-3.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter:

"Affiliate" means any person controlling, controlled by, or under the common control of another person.

"Beneficial owner of a security" means any person who, directly or indirectly, has the power to vote or direct the voting of all or part of the voting rights of the security, or has the power to dispose of or direct the disposition of the security.

"Commissioner" means the securities commissioner as defined in IC 23-2-1-1.

"Control" means possession, direct or indirect, of the power to direct or to cause the direction of the management and policies of a person, through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless that power is the result of an official position or corporate office. The term includes "controlling," "controlled by," and "under common control with." Control is presumed to exist if any person is the beneficial owner of ten percent (10%) or more of any class of the voting securities of any other person. This presumption may be rebutted only by a showing that control does not exist in fact, at a hearing pursuant to section 9 of this chapter.

"Equity security" means:

(1) any share or similar security carrying, at the time of the takeover offer, the right to vote on any matter by virtue of the articles of incorporation, bylaws, or governing instrument of the target company or the right to vote for directors or persons performing substantially similar functions by operation of law;

(2) any security convertible into a security described in clause (1) or any warrant or right to purchase that security; or

(3) any other security which, for the protection of investors, is an equity security pursuant to a regulation of the commissioner.

"Offeror" means a person who makes or in any way participates in

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making a takeover offer. The term includes all affiliates of that person and all persons who act jointly or in concert with that person for the purpose of acquiring, holding or disposing of, or exercising any voting rights attached to, the equity securities of a target company. It also includes the target company with respect to acquisitions of its own equity securities and with respect to periods of time when it is controlled by or under common control with the offeror. It does not include a financial institution or broker-dealer loaning funds or extending credit to any offeror in the ordinary course of its business, or any accountant, attorney, financial institution, broker-dealer, newspaper or magazine of general circulation, consultant, or other person furnishing information, services, or advice to or performing ministerial or administrative duties for an offeror and not otherwise participating in the takeover offer.

"Offeree" means a record or beneficial owner of equity securities of the class which an offeror acquires or offers to acquire in connection with a takeover offer.

"Person" means an individual, corporation, limited liability company, association, partnership, trust, or other entity.

"Substantially equivalent terms" means terms under which the fair market value of the consideration offered any offeree of a class of equity securities of the target company (determined on a per share or a per unit basis) are equal to the highest consideration offered in connection with a takeover offer to any other offeree of that class (determined on a per share or per unit basis).

"Takeover offer" means an offer to acquire or an acquisition of any equity security of a target company, pursuant to a tender offer or request or invitation for tenders, if, after the acquisition, the offeror is directly or indirectly a record or beneficial owner of more than ten percent (10%) of any class of the outstanding equity securities of the target company.

"Target company" means an issuer of securities which is organized under the laws of this state, has its principal place of business in this state, and has substantial assets in this state. Target company does not include:

(1) a financial institution subject to regulation by the department of financial institutions under IC 28, if the takeover offer is subject to approval by the department of financial institutions;

(2) a corporation subject to regulation by the utility regulatory commission under IC 8, if the takeover offer is subject to approval of the commission; or

(3) a public utility, public utility holding company, bank holding

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company, or savings ~~and loan~~ association subject to regulation by a federal agency, if the takeover offer is subject to the approval by that federal agency.

SECTION 20. IC 23-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) As used in this chapter, "loan broker" means any person who, in return for any consideration from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person. "Loan broker" does not include:

(1) any bank, savings bank, trust company, savings ~~and loan~~ association, credit union, or any other financial institution regulated by any agency of the United States or any state except any person who is a financial institution solely because of a license to make consumer loans under IC 24-4.5-3-503 or solely because of a similar license from another state;

(2) any person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, make loans guaranteed by the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development or guaranteed by the United States Department of Veterans Affairs;

(3) any insurance company; or

(4) any person arranging financing for the sale of the person's product.

(b) As used in this chapter, "creditor" means any person to whom a loan is initially payable on the face of the note or contract evidencing the loan.

SECTION 21. IC 23-5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. The power and authority of any business trust authorized under this chapter to transact business in this state shall be as specified in the instrument by which it was created as amended, including but not limited to general grants of power to act and limitations upon individual liability of stockholders, which instrument shall be construed and interpreted in accordance with the common and statutory law applicable to business trusts. Any such trust shall have the right to sue and be sued and if incidental to its purposes the right in its own name, or in the name of the person or persons or corporation or corporations who are from time

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to time its trustee or trustees, to acquire, hold title to, mortgage, sell, convey, lease, operate, invest in, lend on the security of, and otherwise deal in or with real and personal property; provided, that no business trust shall engage in the business of operating a ~~rural loan and~~ savings association or credit union or have the power or authority to conduct a banking, railroad, insurance, surety, safe deposit, mortgage guaranty, or building and loan business, or in the business of mining or manufacturing, or in any business regulated under the utility regulatory commission, or take any action which is in violation of this chapter. Subject to the limitations in this section on power and authority, any person dealing with a business trust authorized under this chapter to transact business in this state shall be bound by the terms and conditions of the instrument by which the trust was created and by any amendments thereto which have been filed and recorded in compliance with section 7 of this chapter.

SECTION 22. IC 23-6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. As used in this chapter, "lending institution" means a bank or trust company, ~~building and loan association,~~ industrial loan and investment company, credit union, savings bank, bank of discount and deposit, small loan company, savings ~~and loan~~ association, insurance company or related corporation, partnership, limited liability company, foundation, pension fund, or other institution engaged primarily in lending or investing funds.

SECTION 23. IC 23-14-33-19, AS ADDED BY P.L.52-1997, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. "Financial institution" means a state or national:

(1) bank;
(2) bank and trust company;
(3) trust company;
(4) savings bank; **or**
~~(5) building and loan association; or~~
~~(6)~~ **(5)** savings ~~and loan~~ association;

that maintains a principal place of business in Indiana and is qualified to serve as a trustee.

SECTION 24. IC 24-5-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) As used in this chapter, "credit services organization" means a person that, with respect to the extension of credit by another person, sells, provides, performs, or represents that the person can or will sell, provide, or perform, in return for the payment of money or other valuable

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consideration, any of the following services:

(1) Improving a buyer's credit record, credit history, or credit rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing advice or assistance to a buyer concerning the services described in subdivision (1) or (2), or both.

(b) The term "credit services organization" does not include any of the following:

(1) A person authorized to make loans or extensions of credit under state or federal laws that is subject to regulation and supervision under state or federal laws, or a lender approved by the United States Secretary of Housing and Urban Development for participation in a mortgage insurance program under the federal National Housing Act (12 U.S.C. 1701 et seq.).

(2) A bank or savings ~~and loan~~ association or a subsidiary of a bank or savings ~~and loan~~ association that has deposits or accounts that are eligible for insurance by the Federal Deposit Insurance Corporation.

(3) A credit union doing business in Indiana.

(4) A nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(5) A person licensed as a real estate broker under IC 25-34.1 if the person is acting within the course and scope of the person's license.

(6) A person admitted to the practice of law in Indiana if the person is acting within the course and scope of the person's practice as an attorney.

(7) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission if the broker-dealer is acting within the course and scope of the broker-dealer's regulation.

(8) A consumer reporting agency (as defined in the Federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)).

SECTION 25. IC 26-1-4-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 105. In IC 26-1-4:

(1) "Bank" means a person engaged in the business of banking, including a savings bank, savings ~~and loan~~ association, credit union, or trust company.

(2) "Depositary bank" means the first bank to take an item even though it is also the payor bank, unless the item is presented for immediate payment over the counter.

(3) "Payor bank" means a bank that is the drawee of a draft.

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(4) "Intermediary bank" means a bank to which an item is transferred in course of collection except the depositary or payor bank.

(5) "Collecting bank" means a bank handling an item for collection except the payor bank.

(6) "Presenting bank" means a bank presenting an item except a payor bank.

SECTION 26. IC 26-1-4.1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 105. (a) In IC 26-1-4.1:

(1) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings ~~and loan~~ association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of IC 26-1-4.1.

(3) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(4) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(5) "Funds-transfer system" means a wire transfer network, automated clearing house, or other communication system of a clearing house or other association of banks through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(6) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(7) "Prove" with respect to a fact means to meet the burden of establishing the fact (IC 26-1-1-201(8)).

(b) Other definitions applying to IC 26-1-4.1 and the sections in which they appear are:

"Acceptance". IC 26-1-4.1-209.

"Beneficiary". IC 26-1-4.1-103.

"Beneficiary's bank". IC 26-1-4.1-103.

"Executed". IC 26-1-4.1-301.

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"Execution date". IC 26-1-4.1-301.
"Funds transfer". IC 26-1-4.1-104.
"Funds-transfer system rule". IC 26-1-4.1-501.
"Intermediary bank". IC 26-1-4.1-104.
"Originator". IC 26-1-4.1-104.
"Originator's bank". IC 26-1-4.1-104.
"Payment by beneficiary's bank to beneficiary". IC 26-1-4.1-405.
"Payment by originator to beneficiary". IC 26-1-4.1-406.
"Payment by sender to receiving bank". IC 26-1-4.1-403.
"Payment date". IC 26-1-4.1-401.
"Payment order". IC 26-1-4.1-103.
"Receiving bank". IC 26-1-4.1-103.
"Security procedure". IC 26-1-4.1-201.
"Sender". IC 26-1-4.1-103.

(c) The following definitions in IC 26-1-4 apply to this IC 26-1-4.1:
"Clearing house". IC 26-1-4-104.
"Item". IC 26-1-4-104.
"Suspends payments". IC 26-1-4-104.

(d) In addition IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-4.1.

SECTION 27. IC 26-1-9-105, AS AMENDED BY P.L.183-1996, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 105. (1) In IC 26-1-9 unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper, or general intangible.

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or series of instruments, the group of writings taken together constitutes chattel paper.

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold.

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term debtor means the owner of the collateral in any provision of IC 26-1 dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the

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context so requires.

(e) "Deposit account" means a demand, time, savings, passbook, or like account maintained with a bank, savings ~~and loan~~ association, credit union, or like organization, other than an account evidenced by a certificate of deposit.

(f) "Document" means document of title as defined in the general definitions in IC 26-1-1-201, and a receipt of the kind described in IC 26-1-7-201(2).

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (IC 26-1-9-313), but does not include money, documents, instruments, investment property, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. Goods also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops.

(i) "Instrument" means a negotiable instrument (defined in IC 26-1-3.1-104) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment. The term does not include investment property.

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like.

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation.

(l) "Security agreement" means an agreement which creates or provides for a security interest.

(m) "Secured party" means a lender, seller, or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement, or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to IC 26-1-9 and the sections in which they appear are:

"Account". IC 26-1-9-106.

"Attach". IC 26-1-9-203.

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"Commodity contract". IC 26-1-9-115.
"Commodity customer". IC 26-1-9-115.
"Commodity intermediary". IC 26-1-9-115.
"Construction mortgage". IC 26-1-9-313(1).
"Consumer goods". IC 26-1-9-109(1).
"Control". IC 26-1-9-115.
"Equipment". IC 26-1-9-109(2).
"Farm products". IC 26-1-9-109(3).
"Fixture". IC 26-1-9-313.
"Fixture filing". IC 26-1-9-313.
"General intangibles". IC 26-1-9-106.
"Inventory". IC 26-1-9-109(4).
"Investment property". IC 26-1-9-115.
"Lien creditor". IC 26-1-9-301(3).
"Proceeds". IC 26-1-9-306(1).
"Purchase money security interest". IC 26-1-9-107.
"United States". IC 26-1-9-103.

(3) The following definitions apply to IC 26-1-9:
"Broker". IC 26-1-8.1-102.
"Certificated security". IC 26-1-8.1-102.
"Check". IC 26-1-3.1-104.
"Clearing corporation". IC 26-1-8.1-102.
"Contract for sale". IC 26-1-2-106.
"Control". IC 26-1-8.1-106.
"Delivery". IC 26-1-8.1-301.
"Entitlement holder". IC 26-1-8.1-102.
"Financial asset". IC 26-1-8.1-102.
"Holder in due course". IC 26-1-3.1-302.
"Letter of credit". IC 26-1-5.1-102.
"Note". IC 26-1-3.1-104.
"Proceeds of a letter of credit". IC 26-1-5.1-114(a).
"Sale". IC 26-1-2-106.
"Securities intermediary". IC 26-1-8.1-102.
"Security". IC 26-1-8.1-102.
"Security certificate". IC 26-1-8.1-102.
"Security entitlement". IC 26-1-8.1-102.
"Uncertificated security". IC 26-1-8.1-102.

(4) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-9.

SECTION 28. IC 27-1-25-1, AS AMENDED BY P.L.185-1996, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter:

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(a) "Administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of Indiana in connection with life or health coverage or annuities, whether provided for by an insurer or a self-funded plan. The term "administrator" does not include the following persons:

(1) An employer for its employees or for the employees of a subsidiary or affiliated corporation of the employer.

(2) A union for its members.

(3) An insurer, including:

(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and

(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.

(4) A life or health insurance agent licensed under IC 27-1-15.5 whose activities are limited exclusively to the sale of insurance.

(5) A creditor for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities.

(9) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders as long as that company does not adjust or settle claims.

(10) An individual who adjusts or settles claims in the normal course of his practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(b) "Certificate of registration" refers to the certificate required by

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section 11 of this chapter.

(c) "Commissioner" refers to the commissioner of insurance.

(d) "Financial institution" means a bank, savings ~~and loan~~ association, credit union, or any other institution regulated under IC 28 or federal law.

(e) "Insurer" means a person who obtains a certificate of authority under IC 27-1-3-20.

(f) "Person" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association.

(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer.

SECTION 29. IC 27-8-19.8-5, AS ADDED BY P.L.116-1994, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) As used in this chapter, "living benefits provider" means a person that enters into a living benefits contract with a policyowner.

(b) The term does not include any of the following:

(1) A bank, savings bank, savings ~~and loan~~ association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.

(2) The issuer of a life insurance policy that makes a policy loan, permits surrender of the policy, or pays other policy benefits, including accelerated benefits, in accordance with the terms of the policy.

SECTION 30. IC 27-10-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. All insurers or general agents requiring bail bond agents to post deposits pursuant to their bail bond writing authority must maintain those deposits in a bank, savings ~~and loan~~ association, or credit union in this state. Each insurer or general agent shall report to the commissioner the location of each agent's account at the time of the agent's license issuance or renewal. Any change in the location of an agent's account shall be reported by the insurer or general agent to the commissioner within thirty (30) days of the change of location.

SECTION 31. IC 28-1-1-3, AS AMENDED BY P.L.192-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. Unless a different meaning is required by the context, the following definitions apply throughout this article:

(1) "Financial institution" means any bank, trust company, corporate fiduciary, ~~building and loan~~ **savings** association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the

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laws of this state, and includes a consumer finance institution licensed to make supervised or regulated loans under IC 24-4.5.

(2) "Bank" or "bank or trust company" means a financial institution organized or reorganized as a bank, bank of discount and deposit, or trust company under the laws of this state with the express power to receive and accept deposits of money subject to withdrawal by check, and possessing such other rights and powers granted by the provisions of this article in express terms or by implication. The term "bank" or "bank or trust company" does not include a ~~building and loan~~ **savings** association, credit union, or industrial loan and investment company.

(3) "Domestic corporation" means a corporation formed under the laws of this state, and "foreign corporation" means every other corporation.

(4) "Articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger and consolidation, and, in the case of corporations organized before July 1, 1933, articles of reorganization, and all amendments thereto.

(5) "Incorporator" means one (1) of the signers of the original articles of incorporation.

(6) "Subscriber" means one who subscribes for shares of stock in a financial institution.

(7) "Shareholder" means one who is a holder of record of shares of stock in a financial institution.

(8) "Capital stock" means the aggregate amount of the par value of all shares of capital stock.

(9) "Capital" means the aggregate amount paid in on the shares of capital stock of a financial institution issued and outstanding.

(10) "Sound capital" means and includes the paid-in and unimpaired capital, the unimpaired surplus, and the unimpaired proceeds of the notes and debentures of any bank which have been issued under the authority and with the approval, in writing, of the department.

(11) "Assets" includes all of the property and rights of every kind of a financial institution and the term "fixed assets" means such assets as are not intended to be sold or disposed of in the ordinary course of business.

(12) "Principal office" means that office maintained by the financial institution in this state, the address of which is required by the provisions of this article to be kept on file in the office of

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the secretary of state.

(13) "Subscription" means any written agreement or undertaking, accepted by a financial institution, for the purchase of shares of capital stock in the financial institution.

(14) "Department" means the department of financial institutions.

(15) "Member" means a member of the department of financial institutions.

(16) "Branch" means any office, agency, or other place of business, other than the principal office of a financial institution, at which deposits are received, checks paid, or money lent.

(17) "Subsidiary" means any foreign or domestic corporation or limited liability company in which the parent bank has at least eighty percent (80%) ownership.

(18) "Savings bank" means a financial institution that:

(A) was organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993;

(B) is formed as the result of a conversion under:

(i) IC 28-1-21.7;

(ii) IC 28-1-21.8; or

(iii) IC 28-1-21.9; or

(C) is incorporated under IC 28-12.

(19) "Corporate fiduciary" means a financial institution whose primary business purpose is to engage in the trust business (as defined in IC 28-14-1-8) and the execution and administration of fiduciary accounts as a nondepository trust company incorporated under Indiana law.

SECTION 32. IC 28-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) As used in this chapter, "corporation" means a bank, trust company, or ~~building and loan~~ **savings** association organized or reorganized under the provisions of this article and any bank of discount and deposit, loan and trust and safe deposit company, trust company, or ~~building and loan~~ **savings** association.

(b) As used in this chapter, "shareholder" means a person who is a holder of record of shares of stock in a corporation, including a member of a share account association or a deposit association, as those terms are defined in ~~IC 28-4-1-1.~~ **IC 28-15-1.**

SECTION 33. IC 28-1-7-1, AS AMENDED BY P.L.192-1997, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) As used in this chapter, "corporation" means:

(1) a bank;

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(2) a trust company;
(3) a corporate fiduciary;
(4) a savings bank organized, reorganized, or formed as a result of a conversion after December 31, 1992;
(5) ~~a building and loan association;~~
~~(6)~~ a savings ~~and loan~~ association; or
~~(7)~~ **(6)** an industrial loan and investment company that maintains federal deposit insurance.

(b) Any two (2) or more corporations that are organized or reorganized under the laws of any state (as defined in IC 28-2-17-19) or of the United States may merge into one (1) of such corporations, or may consolidate into a new corporation, to be organized under IC 28-12, by complying with the provisions of this chapter.

(c) A savings bank organized before January 1, 1993, may under section 25 of this chapter merge, consolidate, or join together with a bank or trust company. Except as provided in section 25 of this chapter, all other provisions of this chapter apply to the merger, consolidation, or joining together.

SECTION 34. IC 28-1-7-5, AS AMENDED BY P.L.122-1994, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. If the agreement of merger is approved by the department, it shall be submitted to a vote of the shareholders of each corporation, at the meeting directed by the resolution of the board of directors of each corporation, and the agreement shall be adopted by each corporation upon receiving the affirmative votes of the holders of a majority of the outstanding shares of the capital stock of the corporation. A ~~building and loan~~ **mutual savings** association or mutual savings bank shall adopt the agreement upon receiving the affirmative vote of fifty-one percent (51%) or more of the votes cast at the meeting called to consider such agreement of merger.

SECTION 35. IC 28-1-7-22, AS AMENDED BY P.L.262-1995, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 22. If any bank, bank of discount and deposit, trust company, savings bank, corporate fiduciary, or ~~building and loan~~ **savings** association:

(1) is acting as the administrator, coadministrator, executor, coexecutor, trustee, or cotrustee of or in respect to any estate or trust, or as guardian of any person or estate which is being administered under the laws of this state; or
(2) has been named or designated as such in any will or other executed writing;

such relation, and all other similar fiduciary relations, and all rights,

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privileges, duties, and obligations shall remain unimpaired, and shall continue with the surviving or single corporation, from the effective date of the merger or consolidation.

SECTION 36. IC 28-1-7-25, AS AMENDED BY P.L.122-1994, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 25. (a) A savings bank organized before January 1, 1993, may request that the department order the savings bank to merge, consolidate, or join with an acquiring institution that is a bank, bank of discount and deposit, savings bank formed after December 31, 1992, ~~building and loan~~ **savings** association, or trust company.

(b) A savings bank may make a request under subsection (a) only if its board of trustees has, at a regular or special meeting called for that purpose, by a vote of at least two-thirds (2/3) of the then qualified and acting trustees, adopted a resolution stating that in the opinion of the board, the merger, consolidation, or other joining together is in the best interests of the depositors and other creditors of the savings bank.

(c) The department may order a merger, consolidation, or other joining requested under subsection (a) if it determines that:

(1) the depositors of the savings bank would not receive any liquidating dividend upon the dissolution of the savings bank; and

(2) the acquiring institution is willing to be the surviving corporation.

(d) The approval of the depositors of a savings bank organized before January 1, 1993, is not required for a merger, consolidation, or joining together under this section.

(e) To facilitate a merger, consolidation, or joining together under this section, the department may convert the charter, form of ownership, or operating powers of a savings bank into the charter, form of ownership, or operating powers of the acquiring institution.

SECTION 37. IC 28-1-8-0.5, AS AMENDED BY P.L.192-1997, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 0.5. As used in this chapter, "corporation" means:

(1) a bank;

(2) a trust company;

(3) a corporate fiduciary;

(4) a savings bank;

(5) ~~a building and loan association;~~

~~(6)~~ a savings ~~and loan~~ association; or

~~(7)~~ **(6)** an industrial loan and investment company that maintains federal deposit insurance.

SECTION 38. IC 28-1-8-6, AS ADDED BY P.L.171-1996, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 1998]: Sec. 6. (a) Subject to the approval of the department, a:

(1) bank;

(2) trust company;

(3) corporate fiduciary;

(4) savings bank;

~~(5) building and loan association;~~ or

~~(6)~~ **(5)** savings ~~and loan~~ association;

may purchase all or substantially all of the assets of one (1) or more corporations that are organized or reorganized under the laws of any state (as defined in IC 28-2-17-19) or the United States.

(b) After the board of directors of a corporation agrees to purchase all or substantially all of the assets of one (1) or more corporations, the board resolution approving the purchase and an application in the form prescribed by the director of the department must be submitted for approval by the department.

(c) The department, in its discretion, may approve or disapprove an application and board resolution submitted under subsection (b). In deciding whether to approve or disapprove the board resolution and application, the department shall consider the following factors:

(1) Whether the institutions subject to the proposed transaction are operated in a safe, sound, and prudent manner.

(2) Whether the financial condition of any institution subject to the proposed transaction will jeopardize the financial stability of any other institutions subject to the proposed transaction.

(3) Whether the proposed transaction under this chapter will result in an institution that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(4) Whether the management or other principals of the institution that will result from the proposed transaction under this chapter are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting institution.

(5) Whether the public convenience and advantage will be served by the resulting institution after the proposed transaction.

(6) Whether the institutions subject to the proposed transaction under this chapter furnish all of the information the department requires in reaching the department's decision.

(d) The approval of the department of the purchase of all or substantially all of the assets of one (1) or more corporations is not required under this section if the resulting corporation is a corporation organized or reorganized under the laws of:

(1) a state (as defined in IC 28-2-17-19) other than Indiana; or

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(2) the United States.

SECTION 39. IC 28-1-9-2, AS AMENDED BY P.L.262-1995, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. Any bank, trust company, corporate fiduciary, savings bank organized after December 31, 1992, bank of discount and deposit, or ~~building and loan~~ **savings** association may liquidate its affairs and dissolve in the manner prescribed in this chapter. Whenever the board of directors, by a resolution adopted by a majority vote of the members of such board, shall deem it advisable to submit the question of dissolution, or whenever the board of directors shall be requested in writing by the holders of a majority of the outstanding shares of capital stock to submit the question of dissolution, the board of directors shall submit the question of dissolving the corporation to a vote of the shareholders of the corporation entitled to vote at such meeting as may be designated in such request, or, in the absence of such request or of such designation, in such resolution. The designated meeting may be an annual or a special meeting of the shareholders. If the designated meeting is an annual meeting, notice of the question of dissolution shall be included in the notice of the annual meeting. If the designated meeting is a special meeting of the shareholders, such special meeting shall be called by the board of directors, and notice of such meeting shall be given at the time and in the manner provided in IC 28-13-14-6. The dissolution shall be authorized, subject to the provisions of section 3 of this chapter, upon receiving the affirmative votes of the holders of two-thirds (2/3) of the outstanding shares of stock of the corporation unless the corporation is a ~~building and loan~~ **savings** association authorized to dissolve by the provisions of this section, in which case the affirmative votes of the holders of a majority of the outstanding shares of stock shall be sufficient and dissolution shall thereby be authorized.

SECTION 40. IC 28-1-11-2.6, AS AMENDED BY P.L.188-1997, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2.6. (a) As used in this section, "financial institution" means a bank, a trust company, a ~~building and loan~~ **savings** association (as defined in ~~IC 28-1-21-1),~~ **IC 28-15),** a savings bank (as defined in IC 28-6.1-2-6), a credit union (as defined in IC 28-7-1-0.5), an industrial loan and investment company organized under IC 28-5, or a corporate fiduciary.

(b) A financial institution that sells or offers for sale a life insurance policy or an annuity contract shall disclose to a person who seeks to purchase, or seeks an opinion or investment advice about, a life insurance policy or an annuity contract at least the following

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information:

(1) That the life insurance policy or annuity contract is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(2) That the life insurance policy or annuity contract is not a deposit to, obligation of, or being guaranteed by, the financial institution.

(3) That some life insurance policies or annuity contracts are subject to investment risks, including possible loss of the principal amount invested.

(c) The disclosures required by subsection (b) must:

(1) be made in writing before or at the time of purchase of the life insurance policy or annuity contract; and

(2) be made orally or in writing during any sales presentation or when investment advice concerning a life insurance policy or an annuity contract is provided.

(d) At the time of the sale of a life insurance policy or an annuity contract, the financial institution must obtain from the purchaser a signed and dated statement containing the following acknowledgments:

(1) That the purchaser has received the disclosures required by subsection (b).

(2) That the purchaser has read the disclosures and understands them.

(e) An advertisement, a solicitation (including a solicitation contained in a periodic statement), promotional or sales material, or a sale confirmation notice that relates to a life insurance policy or an annuity contract sold or offered for sale by a financial institution must conspicuously disclose the information required by subsection (b).

(f) A financial institution may not:

(1) use information from a purchaser's personal financial statement for the purpose of selling or soliciting the purchase of life insurance; or

(2) provide information from a purchaser's personal financial statement to a third party for the purpose of the third party's sale or solicitation of the purchase of life insurance;

unless an insurance agent of the financial institution obtains the information directly from the purchaser.

(g) If a financial institution sells or solicits the sale of insurance on the premises of its principal office or a branch, the financial institution may sell or solicit the sale of insurance only in a location of the premises that is:

(1) physically separated and distinct from the banking activities

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of the financial institution; and

(2) clearly and conspicuously posted in a manner that easily indicates to the public that the location is separate and distinct from the banking activities of the financial institution.

(h) If a financial institution requires a person to obtain an insurance policy in connection with a non-insurance product or service, the insurance transaction must be completed on a document separate from the document or documents used to complete the transaction involving the non-insurance product or service.

SECTION 41. IC 28-1-11-4, AS AMENDED BY P.L.192-1997, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) Except as otherwise provided in this article, the business of dealing in investment securities by any bank or trust company is limited to purchasing and selling securities without recourse, solely upon the order and for the account of customers and in no event for its own account. A bank or trust company may not underwrite or guarantee all or any part of any issue of securities other than obligations issued or guaranteed by or on behalf of the state or any political subdivision of the state or any agency or instrumentality of either. A bank or trust company may purchase for its own account and sell investment securities under such limitations and restrictions as the department prescribes by rule, but in no event may the total amount of the investment securities of any one (1) obligor or maker, purchased or held by a bank or trust company for its own account, exceed at any time ten percent (10%) of the amount of the total equity capital of the bank or trust company. The limitations imposed by this section do not apply to the direct or indirect obligations of the United States or the direct obligations of a United States territory or insular possession or of the state of Indiana or any municipal corporation or taxing district in Indiana. A bank or trust company may purchase for its own account and sell shares of stock in federal or state chartered small business investment companies that have received a permit or license to operate under the federal Small Business Investment Act (15 U.S.C. 681). However, a bank or trust company may not acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed five percent (5%) of its total equity capital.

(b) A bank or trust company may purchase for its own account and sell:

(1) shares of open-end investment companies the portfolios of which consist solely of securities that are eligible for purchase

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and sale by national banking associations; and

(2) obligations, commonly known as collateralized mortgage obligations, that are eligible for purchase and sale by national banking associations. However, a bank or trust company may purchase for its own account and sell the obligations only to the extent that a national banking association can purchase and sell those obligations.

(c) A bank or trust company may deposit its funds in:

(1) a federally chartered savings ~~and loan~~ association; or

(2) a ~~building and loan association,~~ savings ~~and loan~~ association or other entity organized and operated according to federal law or the laws of any state or the District of Columbia;

the accounts of which are insured by the Saving Association Insurance Fund of the Federal Deposit Insurance Corporation.

(d) A bank or trust company may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this subsection, a security is speculative or has speculative characteristics if at the time of purchase the security:

(1) is rated below the first four (4) rating classes by a generally recognized security rating service; or

(2) is in default.

(e) A bank or trust company may purchase for its own account a security that is not rated by a generally recognized security rating service if the bank or trust company at the time of purchase obtains financial information that is adequate to document the investment quality of the security.

(f) Except as otherwise authorized by this title, a bank or trust company may not purchase any share of stock of a corporation that is not a subsidiary of that bank or trust company unless the purchase is considered expedient to prevent loss from a debt previously contracted in good faith. Any shares of stock thus acquired by a bank or trust company that would not have been eligible for purchase shall be sold and disposed of within six (6) months from the date of acquisition unless the director grants an extension of time for the sale and disposition.

(g) Notwithstanding any other provision of this article, a bank or trust company may purchase for its own account shares of stock of a banker's bank insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation or a holding company that owns or controls a banker's bank insured by the Bank Insurance Fund of the

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Federal Deposit Insurance Corporation. For the purposes of this subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

(1) the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2), or by a bank holding company the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2); and

(2) that is engaged exclusively in providing services to other banks (as defined in IC 28-2-14-2), and to their officers, directors, and employees.

A bank's or trust company's holdings of the stock of an insured banker's bank or of a holding company that owns or controls an insured banker's bank may not exceed ten percent (10%) of the capital and surplus of the bank or trust company. A bank or trust company may not purchase the stock of an insured banker's bank or of a holding company that owns or controls an insured banker's bank if, after the purchase, the bank or trust company would own more than five percent (5%) of any class of voting securities of the banker's bank or holding company.

(h) Notwithstanding any other provision of this article, a bank or trust company may invest in a casualty insurance company organized solely for the purpose of insuring banks, trust companies, and bank holding companies and their officers and directors from and against liabilities, including those covered by bankers' blanket bonds and director and officer liability insurance and other public liability insurance. The investment must take the form of:

(1) the purchase for the bank's or trust company's own account of shares of stock of the casualty insurance company or shares of stock of an association of banks organized for the purpose of funding the casualty insurance company; or

(2) loans to such an association of banks.

The total investment of any bank or trust company under this subsection may not exceed five percent (5%) of the capital and surplus of the bank or trust company.

(i) Any bank or trust company may establish or acquire a subsidiary that engages in:

(1) the sale, distribution, or underwriting of securities issued by investment companies (as defined in Section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); or

(2) the underwriting or distribution of securities backed by or representing an interest in mortgages.

(j) As used in this section, "total equity capital" means unimpaired capital stock, unimpaired surplus, unimpaired undivided profits, subordinated debt that has been approved by the state or federal

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regulatory agencies, and one hundred percent (100%) of loan reserves.

(k) The department may define an investment security by department policy or by rule.

(l) A bank or trust company may establish a trading account for the purchase and resale of securities that are otherwise eligible for purchase or resale by the bank or trust company. The trading account must comply with the requirements established by policy or rule of the department.

(m) A bank or trust company that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

SECTION 42. IC 28-1-20-4, AS AMENDED BY P.L.262-1995, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. (a) Except as provided in subsections (b), (d), and (g), it is unlawful for any person, firm, limited liability company, or corporation (other than a bank or trust company or corporate fiduciary organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States):

(1) to use the word "trust" or the word "bank" as a part of the name or title of the person, firm, or corporation; or

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

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

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

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

(1) the words "savings bank"; or

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

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

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

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

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

(e) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank" or "trust" in its title or holds itself out as a bank or trust for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

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

(g) The word "bank" may not be included in the name of a corporate fiduciary.

SECTION 43. IC 28-1-21.4-1, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter, "~~building and loan~~ **"mutual savings** association" means any ~~building and loan~~ **mutual savings** association organized or reorganized under this title, and any ~~building and loan association, rural loan and savings association, or guaranty loan and~~ savings association organized under any Indiana statute before February 24, 1933, that is in a mutual form.

SECTION 44. IC 28-1-21.4-2, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this chapter, "charter conversion" means the conversion of a ~~building and loan~~ **mutual savings** association to a stock ~~building and loan~~ **savings** association, including any of the following:

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(1) A conversion in connection with the formation of a holding company.

(2) An acquisition involving an existing corporation.

(3) A merger with an existing financial institution.

SECTION 45. IC 28-1-21.4-3, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. As used in this chapter, "conversion plan" refers to the plan of charter conversion of a ~~building and loan~~ **mutual savings** association to a stock ~~building and loan~~ **savings** association required by this chapter.

SECTION 46. IC 28-1-21.4-6, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. As used in this chapter, "stock ~~building and loan~~ **savings** association" means a ~~building and loan~~ **savings** association that is:

(1) owned by holders of capital stock; and

(2) formed by conversion under this chapter.

SECTION 47. IC 28-1-21.4-7, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. As used in this chapter, "voting parties" means the:

(1) depositors; and

(2) borrowers;

of a ~~building and loan~~ **mutual savings** association as provided in IC 28-13-6-2(e).

SECTION 48. IC 28-1-21.4-8, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. Notwithstanding any provision of this title, a ~~building and loan~~ **mutual savings** association may convert its charter under this chapter with the approval of the department.

SECTION 49. IC 28-1-21.4-9, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 9. (a) The department shall prescribe procedures for charter conversions under this chapter.

(b) The procedures prescribed by the department must include the following:

(1) The ~~building and loan~~ **savings** association must prepare and submit a conversion plan to the department that provides the terms and conditions of the charter conversion as required by the department. The conversion plan must stipulate the manner of distribution of stock.

(2) The conversion plan must be adopted by at least a majority of

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the board of directors of the ~~building and loan~~ **savings** association.

(3) Upon approval of a plan of charter conversion by the board of directors of the ~~building and loan~~ **savings** association, the conversion plan and a certified copy of the resolution of the board of directors approving the conversion plan shall be submitted to the department for approval.

(4) The conversion plan must be conditioned upon the approval of at least a majority of the total number of votes eligible to be cast at a regular or special meeting of the voting parties. In obtaining the approval of the conversion plan by the voting parties, the converting ~~building and loan~~ **savings** association shall provide to the voting parties the information regarding the conversion plan that the department requires. In determining the information that must be provided, the department shall give due consideration to the requirements of the office of thrift supervision regulations relating to proxy statements governed by Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n).

(5) The ~~building and loan~~ **savings** association shall provide to the department the additional relevant information requested by the department in connection with the conversion plan.

SECTION 50. IC 28-1-21.4-10, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. The voting parties of a ~~building and loan~~ **mutual savings** association have the voting rights set forth in IC 28-13-6-2 with respect to a charter conversion of the ~~building and loan~~ **mutual savings** association under this chapter.

SECTION 51. IC 28-1-21.4-11, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) The department may approve or disapprove the conversion plan filed under section 9 of this chapter.

(b) The department is not required to hold a hearing on the conversion plan.

(c) Solicitation of the votes of voting parties may occur before the ~~building and loan~~ **savings** association receives approval of the department if the director of the department has reviewed the proxy solicitation material and has notified the ~~building and loan~~ **savings** association in writing that the department does not object to the use of the material.

SECTION 52. IC 28-1-21.4-12, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 1998]: Sec. 12. The department may not approve the conversion plan unless the department finds, after appropriate investigation or examination, all of the following:

(1) That the resulting stock ~~building and loan~~ **savings** association will operate in a safe, sound, and prudent manner.

(2) That the proposed charter conversion will not result in a stock ~~building and loan~~ **savings** association that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(3) That the management or other principals of the ~~building and loan~~ **savings** association are qualified by character and financial responsibility to control and operate in a legal and proper manner the proposed stock ~~building and loan~~ **savings** association.

(4) That the interests of the depositors, the creditors, and the public generally will not be jeopardized by the proposed charter conversion.

SECTION 53. IC 28-1-21.4-13, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 13. At the effective time of the charter conversion, the resulting stock ~~building and loan~~ **savings** association:

(1) possesses all of the rights, privileges, immunities, and powers of a stock ~~building and loan~~ **savings** association;

(2) unless otherwise provided in this chapter, is subject to all of the statutes, regulations, duties, restrictions, obligations, and liabilities of a stock ~~building and loan~~ **savings** association;

(3) succeeds by operation of law to all rights and property of the converting ~~building and loan~~ **savings** association; and

(4) is subject to all debts, obligations, and liabilities of the converting ~~building and loan~~ **savings** association as if the stock ~~building and loan~~ **savings** association had incurred the debts and liabilities.

SECTION 54. IC 28-1-21.4-14, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 14. The department may authorize the resulting stock ~~building and loan~~ **savings** association to do the following:

(1) Wind up any activities legally engaged in by the ~~building and loan~~ **savings** association at the effective time of the charter conversion not permitted to stock ~~building and loan~~ **savings** associations.

(2) Retain for a transitional period any assets legally held by the ~~building and loan~~ **savings** association at the effective time of the charter conversion that otherwise may not be held by stock ~~building and loan~~ **savings** associations.

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The terms and conditions of the transitional period under subdivisions (1) and (2) are subject to the discretion of the department. However, the transitional period may not exceed ten (10) years after the effective time of the charter conversion.

SECTION 55. IC 28-1-21.4-15, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 15. A stock ~~building and loan~~ **savings** association created by charter conversion may retain all branches lawfully established.

SECTION 56. IC 28-1-21.4-16, AS ADDED BY P.L.176-1996, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 16. (a) To effect the charter conversion, the converting ~~building and loan~~ **savings** association must file with the secretary of state articles of charter conversion showing the approval of the director of the department.

(b) The converting ~~building and loan~~ **savings** association shall record copies of the articles of charter conversion with the county recorder of the county where the principal office of the stock ~~building and loan~~ **savings** association is located.

(c) The articles of charter conversion constitute articles of incorporation and must set forth the elements required in IC 28-12-2-1.

SECTION 57. IC 28-1-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The fees payable to the secretary of state by financial institutions which are organized or reorganized under the laws of this state or under the laws of any other state shall be the same as the fees prescribed in IC 23-1-18, except that the fee imposed on the basis of the capital stock of any ~~building and loan association or~~ savings ~~and loan~~ association shall be the sum of one dollar ($1) for each original application and one dollar ($1) for each additional application for shares, irrespective of the number of shares to be authorized by such application and issued thereunder.

SECTION 58. IC 28-1-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) Except as provided in subsection (b), a mutual savings bank ~~a rural loan and savings association, a guaranty loan and savings association,~~ or a mortgage guarantee company may not be incorporated or organized under Indiana law.

(b) A mutual savings bank may be organized with all rights and privileges under IC 28-6.1 only by a mutual bank conversion under IC 28-1-21.7.

SECTION 59. IC 28-2-13-3, AS AMENDED BY P.L.171-1996, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 1998]: Sec. 3. As used in this chapter, "affiliate" means, as to a bank controlled by one (1) or more bank holding companies, another bank, savings bank, ~~building and loan association, savings and loan association,~~ or savings association controlled by the same bank holding company or bank holding companies.

SECTION 60. IC 28-2-14-2, AS AMENDED BY P.L.122-1994, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) As used in this chapter, "bank" means a financial institution:

(1) that has been organized or reorganized under the laws of the United States or the state of Indiana;

(2) that has its principal office in Indiana; and

(3) that:

(A) is an "insured bank" (as defined in Section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or is eligible to make application to become an insured depository institution under Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815); or

(B) is a stock savings bank that was formed as a result of a conversion under IC 28-1-21.8 or IC 28-1-21.9 or incorporated under IC 28-12.

(b) Except as provided in subsection (a)(3)(B), the term "bank" does not include:

(1) any institution that has been or is chartered by the Federal Home Loan Bank Board or the Office of Thrift Supervision;

(2) institutions of the "Farm Credit System" as described in 12 U.S.C. 2001 through 2260, which include the Farm Credit Banks, the Federal Land Bank Associations, the Production Credit Associations, the Banks for Cooperatives, and any other institution that may become a part of the Farm Credit System, as chartered by and subject to the supervision of the Farm Credit Administration; or

(3) any other institution that has been organized or reorganized as a ~~savings and loan association, building and loan association,~~ savings association, credit union, or industrial loan and investment company.

SECTION 61. IC 28-2-16-2, AS AMENDED BY P.L.122-1994, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) As used in this chapter, "bank" means a financial institution:

(1) that has been organized or reorganized under the laws of the United States, any state of the United States, or the District of

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Columbia; and

(2) that:

(A) is an "insured bank" (as defined in Section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or is eligible to make application to become an insured depository institution under Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815); or

(B) is a stock savings bank that was formed as a result of conversion under IC 28, incorporated under IC 28-12, or organized or reorganized under the laws of any other state of the United States.

(b) Except as provided in subsection (a)(2)(B), the term "bank" does not include:

(1) any institution that has been or is chartered by the Federal Home Loan Bank Board or the Office of Thrift Supervision;

(2) institutions of the "Farm Credit System" as described in 12 U.S.C. 2001 through 2260, which include the Farm Credit Banks, the Federal Land Bank Associations, the Production Credit Associations, the Banks for Cooperatives, and any other institution that may become a part of the Farm Credit System, as chartered by and subject to the supervision of the Farm Credit Administration; or

(3) any other institution that has been organized or reorganized as ~~a savings and loan association, a building and loan association,~~ a savings association, a credit union, or an industrial loan and investment company.

SECTION 62. IC 28-2-17-20, AS ADDED BY P.L.171-1996, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) With the prior written approval of the department, an Indiana state bank may establish, maintain, and operate one (1) or more branches in a state other than Indiana pursuant to an interstate merger transaction in which the Indiana state bank is the resulting bank.

(b) Not later than the date on which the required application for the interstate merger transaction is filed with the appropriate federal bank supervisory agency, the applicant Indiana state bank shall file an application with the department on a form prescribed by the director.

(c) An interstate merger transaction must be done in compliance with:

(1) IC 28-1-7;

(2) IC 28-1-8; or

(3) IC 28-3-2.

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(d) An interstate merger transaction may be consummated only after the applicant has received the written approval of the department. The department has the authority to establish terms, conditions, and time frames by which the transaction may be consummated.

(e) A ~~building and loan~~ **savings** association or an industrial loan and investment company organized or reorganized under the laws of Indiana may engage in an interstate merger transaction to the same extent and under the same restrictions, conditions, and requirements as an Indiana state bank.

SECTION 63. IC 28-2-17-24, AS ADDED BY P.L.171-1996, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 24. (a) To the extent consistent with subsection (b), the department may make the examinations of any branch established and maintained in Indiana pursuant to this chapter by an out-of-state state bank as the department may consider necessary to determine whether the branch is being operated in compliance with the laws of Indiana and in accordance with safe and sound banking practices. The provisions of IC 28-11-3 shall apply to such examinations.

(b) The department may enter into cooperative, coordinating, and information-sharing agreements with any organization enumerated in IC 28-11-3-3 with respect to the periodic examination or other supervision of:

(1) any branch in Indiana of an out-of-state state bank; or

(2) any branch of an Indiana state bank in any host state;

and the department may accept the organization's reports of examination and reports of investigation instead of conducting its own examinations or investigations.

(c) The department may enter into agreements with any financial institution supervisory agency that has concurrent jurisdiction over an Indiana state bank or an out-of-state state bank operating a branch in Indiana pursuant to this chapter to:

(1) engage the services of such agency's examiners at a reasonable rate of compensation; or

(2) provide the services of the department's examiners to such agency at a reasonable rate of compensation.

Any such agreement shall be entered into under IC 36-1-7.

(d) The department may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch established and maintained in Indiana of an out-of-state state bank or any branch established and maintained by an Indiana state bank in any host state. The department

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may at any time take such actions independently if the department considers the actions to be necessary or appropriate to carry out its responsibilities under this chapter or to ensure compliance with the laws of Indiana. In the case of an out-of-state state bank, the department shall recognize:

(1) the exclusive authority of the home state regulator over corporate governance matters; and

(2) the primary responsibility of the home state regulator with respect to safety and soundness matters.

(e) Each out-of-state state bank that maintains one (1) or more branches in Indiana is subject to the provisions of IC 28-11-3-5. The fees may be shared with other financial institution supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies in accordance with agreements between those agencies and the department.

(f) For the purposes of this chapter, the provisions of IC 28-1-2-30 apply to the following:

(1) An out-of-state bank.

(2) An out-of-state savings ~~and loan~~ association.

(3) An out-of-state industrial loan and investment company.

SECTION 64. IC 28-2-18-19, AS AMENDED BY P.L.192-1997, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) With the prior written approval of the department, any Indiana state bank may establish and maintain a de novo branch or acquire a branch in a state other than Indiana.

(b) An Indiana state bank that desires to:

(1) establish one (1) or more de novo branches; or

(2) acquire one (1) or more branches under this section;

must file a written application with the department. The application must be in the form and contain the information prescribed by the director.

(c) The department may approve or disapprove an application filed under this section. Before the department approves an application, the bank must demonstrate to the satisfaction of the department that:

(1) the applicant state bank will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the branch; and

(2) the establishment of the proposed branch will not violate the laws of the host state.

(d) The investigation of the department relative to any application as required by this subsection shall be conducted without a public hearing.

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(e) The location of any branch in another state established or acquired under this section may be changed at any time to a location within the state where the branch is located if the change of location:

(1) is authorized by the board of directors of the Indiana state bank; and

(2) approved by the department.

(f) A ~~building and loan~~ **savings** association or an industrial loan and investment company organized or reorganized under the laws of Indiana may establish and maintain a de novo branch or acquire a branch in a state other than Indiana to the same extent and under the same restrictions, conditions, and requirements as an Indiana state bank.

SECTION 65. IC 28-2-18-25, AS ADDED BY P.L.171-1996, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 25. (a) To the extent consistent with subsection (b), the department may make examinations of any branch established and maintained in Indiana pursuant to this chapter by an out-of-state state bank as the department may consider necessary to determine whether the branch is being operated in compliance with the laws of Indiana and in accordance with safe and sound banking practices. The provisions of IC 28-11-3 shall apply to the examinations.

(b) The department may enter into cooperative, coordinating, and information-sharing agreements with any organization enumerated in IC 28-11-3-3 with respect to the periodic examination or other supervision of:

(1) any branch in Indiana of an out-of-state state bank; or

(2) any branch of an Indiana state bank in any host state;

and the department may accept the organization's reports of examination and reports of investigation instead of conducting its own examinations or investigations.

(c) The department may enter into agreements with any financial institution supervisory agency that has concurrent jurisdiction over an Indiana state bank or an out-of-state state bank operating a branch in Indiana pursuant to this chapter to:

(1) engage the services of the agency's examiners at a reasonable rate of compensation; or

(2) provide the services of the department's examiners to the agency at a reasonable rate of compensation.

Any such agreement shall be entered into under IC 36-1-7.

(d) The department may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch established and maintained in

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Indiana by an out-of-state state bank or any branch established and maintained by an Indiana state bank in any host state. The department may at any time take the actions independently if the department considers the actions to be necessary or appropriate to carry out its responsibilities under this chapter or to ensure compliance with the laws of Indiana. In the case of an out-of-state state bank, the department shall recognize:

(1) the exclusive authority of the home state regulator over corporate governance matters; and

(2) the primary responsibility of the home state regulator with respect to safety and soundness matters.

(e) Each out-of-state bank that maintains one (1) or more branches in Indiana is subject to the provisions of IC 28-11-3-5. The fees may be shared with other financial institution supervisory agencies or any organization affiliated with or representing one (1) or more bank supervisory agencies in accordance with agreements between those parties and the department.

(f) For the purposes of this chapter, the provisions of IC 28-1-2-30 apply to the following:

(1) An out-of-state bank.

(2) An out-of-state savings ~~and loan~~ association.

(3) An out-of-state industrial loan and investment company.

SECTION 66. IC 28-3-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. Any bank, trust company, ~~building and loan~~ **savings** association or other financial institution incorporated or organized under any law of this state and which has heretofore undertaken voluntary liquidation proceedings but failed to comply with the then existing law as to the giving of notice of such voluntary liquidation, may correct such error of omission by giving notice of such voluntary liquidation in the manner originally provided for such financial institution. Any notice so given shall contain in brief form a chronological history of the liquidation proceedings. Any notice so given shall also state in effect that any creditor, shareholder or other interested party failing to object in writing to the acts of the liquidating agent within sixty (60) days after the first publication of such notice shall be forever barred from thereafter asserting any claim against the financial institution, the liquidating agent, or his surety.

SECTION 67. IC 28-5-1-6, AS AMENDED BY P.L.194-1997, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) Every company may exercise all the powers conferred upon domestic corporations by IC 23-1 but only to the extent

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that those powers may be necessary, convenient, or expedient to accomplish the purposes for which it is organized. Subject to the restrictions and limitations contained in this chapter, every company may exercise the following powers:

(1) To issue, negotiate, and sell its secured or unsecured certificates of investment or indebtedness, subject to subdivision (17), upon terms and conditions, in any form, and payable at times that are not inconsistent with this chapter and, subject to subsection (c), bearing a rate of interest approved by the department.

(2) To make, purchase, discount, or otherwise acquire extensions of credit under IC 24-4.5.

(3) To lend money without security or upon the security of comakers, personal endorsement, or the mortgage of real or personal property or the mortgage or pledge of bailment leases or rentals due and to become due thereunder and other choses in action, and to contract for interest, discount, fees, charges, or other consideration fixed or permitted by any laws of Indiana concerning interest, discount, or usury.

(4) To discount, purchase, or otherwise acquire notes, bills of exchange, acceptances, bailment leases, and the property covered thereby or the rentals due or to become due thereunder or other choses in action and, subject to such restrictions the department imposes, to become owner or lessor of personal or real property acquired upon the request and for the use of a customer, and to incur additional obligations incident to becoming an owner or lessor of the property. The liability of a lessee under the lease does not constitute an obligation (as defined in section 8 of this chapter).

(5) To purchase or construct buildings and hold legal title to them, to be leased for public purposes to municipal corporations or other public authorities having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration, the lessee shall become owner of the building.

(6) To invest in bonds, notes, or certificates which are:

(A) the direct or indirect obligations of the United States or of the state;

(B) obligations of mutual funds or financial institutions if the obligations represent a participation in a fund invested in, or are secured by, direct or indirect obligations of the United States owned by the mutual fund or financial institution;

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(C) the direct obligations of a civil or school county, township, city, town, other taxing district, municipality of Indiana;

(D) a special taxing district in Indiana;

(E) issued by or in the name of the trustees of Indiana University, the trustees of Purdue University, the trustees of Ball State University, the trustees of Indiana State University, or the Indiana educational facilities authority;

(F) issued by or in the name of any municipality of Indiana and payable from the revenues to be derived from the operation of facilities for the production or distribution of water, electricity, gas, or from the operation of sewage works; or

(G) the obligations of any Indiana toll road commission, public library, or schoolhouse holding corporation first mortgage bonds;

which district, municipality, taxing unit, or corporation is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted for a period of more than six (6) months within the five (5) year period immediately preceding the purchase of the securities.

(7) To invest in bonds, notes, or debentures rated in one (1) of the first four (4) classifications established by one (1) or more standard rating services specified by the department that satisfy requirements of marketability prescribed periodically by the department that are the obligations of a person, a firm, a limited liability company, a corporation, a state, a territory, an insular possession of the United States, or a county, township, town, city, taxing district, or municipality thereof which is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted within the five (5) year period immediately preceding the purchase of the securities and other investment securities prescribed by the department by rule. As used in this section, the term "investment securities" means marketable obligations evidencing indebtedness of a person, firm, limited liability company, or corporation in the form of bonds, notes, or debentures commonly known as "investment securities" and the definition of the term "investment securities" prescribed by the department by rule. Except as is otherwise provided in this chapter or otherwise permitted by law, nothing contained in this subdivision authorizes the purchase by an industrial loan and investment company of shares of stock or other securities, unless the purchase is necessary to prevent loss under a debt previously contracted in good faith and stocks or other securities so

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purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

(8) To invest in bonds or debentures issued under and by the authority of the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1429), or of the Home Owners' Loan Act (12 U.S.C. 1461 through 1468), or obligations issued by or for farm credit banks, and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(9) To invest in insured shares of an insured savings ~~and loan or insured building and loan~~ association organized under the laws of Indiana, and in insured shares of an insured federal savings ~~and loan~~ association whose principal place of business is located in Indiana; and in certificates of indebtedness or investment of an industrial loan and investment company organized under the laws of Indiana. However, not more than twenty percent (20%) of the resources of the company may be invested in the insured shares of any such association, nor more than ten percent (10%) of sound capital in such certificates of industrial loan and investment companies.

(10) To make loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain insurance from the administrator.

(11) To make loans secured by mortgage on real property or leasehold, insured by the federal housing administrator, or makes a commitment to insure and to obtain insurance from the administrator.

(12) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities insured by national mortgage associations.

(13) To discount, purchase, or otherwise acquire charge accounts, and drafts and bills of exchange evidencing charge accounts and to impose and collect monthly service charges and maintenance charges on charge accounts, drafts, or bills of exchange which are owned or acquired in amounts agreed upon between the company and the obligor, or obligors, on charge accounts, drafts, and bills of exchange.

(14) To purchase or otherwise acquire property, real or personal, tangible or intangible, in which the company has a security

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interest to secure a debt owing to the company contracted in good faith or the purchase or acquisition of which property is considered expedient to prevent loss from a debt owing to the company contracted in good faith, and for such purpose to engage in any lawful business considered necessary or expedient by the company to preserve, protect, or make saleable the property. Property thus purchased or acquired shall be sold and disposed of within two (2) years, or a longer period permitted by the department, after the purchase or acquisition.

(15) To exercise any right or power through a subsidiary approved by the department, and to purchase, own, and hold shares of stock of each subsidiary, but a subsidiary may not exercise a power or engage in an activity which the company would not be permitted to do. Each subsidiary shall be subject to examination by the department to the same extent as though it were comprised within the legal entity of the company, and unless otherwise provided by statute or rule, pertinent book figures of the company and its subsidiaries shall be consolidated for the purpose of applying applicable provisions of this chapter. Any such subsidiary may be organized under the laws of this state or any other state, territory, or insular possession of the United States and may qualify as a foreign corporation authorized to do business in any other state, territory, or insular possession of the United States.

(16) To act as trustee of a trust created in the United States and forming part of a stock bonus, pension, or profit sharing plan that is qualified for tax treatment under Section 401(d) of the Internal Revenue Code, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, if the funds of that trust or account are only invested in certificates of investment or indebtedness of the company or in obligations or securities issued by that company. All funds held under this subdivision in a fiduciary capacity may be commingled by the company for appropriate investment purposes; however, individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision.

(17) To do anything necessary and appropriate to obtain or maintain federal deposit insurance under the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811 through 1833e), or insurance under any other federal or Indiana law providing insurance for certificates of investment or indebtedness issued by a company. A company that obtains and maintains federal deposit

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insurance is not required to obtain approval from the department concerning the rate of interest payable on, or the form, the terms, or the conditions of the certificates of investment or indebtedness, and the company may exercise all of the powers that are conferred upon institutions maintaining federal deposit insurance that are not in conflict with Indiana law.

(18) To become a member of a federal home loan bank and acquire, own, pledge, sell, assign, or otherwise dispose of shares of the capital stock of a federal home loan bank.

(19) To borrow money and procure advances from a federal home loan bank and to transfer, assign to, and pledge with the federal home loan bank any of the bonds, notes, contracts, mortgages, securities, or other property of the company held or acquired as security for the payment of the loans and advances.

(20) To possess and exercise all rights, powers, and privileges conferred upon and do and perform all acts and things required of members or shareholders of a federal home loan bank, or by the provisions of 12 U.S.C. 1421 through 1449.

(21) Subject to section 6.3 of this chapter, to exercise the rights and privileges (as defined in section 6.3(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, applies to loans, advances of credit, or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

(c) If any national or state chartered bank **or** savings ~~and loan~~ association ~~or building and loan association~~ is not limited by law with regard to the rate of interest payable on any type or category of checking account, savings account, or deposit, certificate of deposit, membership share, or other account, then industrial loan and investment companies are similarly not limited with regard to the interest payable on certificates of investment or indebtedness.

SECTION 68. IC 28-5-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 25. (a) Any industrial loan and investment company organized under this chapter may, upon approval of the department, convert into a state bank or trust company or a savings ~~and loan~~ association.

(b) The department shall prescribe the procedure for conversion under this section. The department shall prescribe a procedure that includes the following conditions:

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(1) The conversion must be proposed by the board of directors of the industrial loan and investment company in a resolution of conversion.

(2) The resolution of conversion must be adopted by an affirmative vote of at least two-thirds (2/3) of the shareholders of the industrial loan and investment company.

(3) The industrial loan and investment company must provide all relevant information requested by the department in connection with the conversion.

(c) Upon conversion, an industrial loan and investment company has all the rights, privileges, immunities, and powers, and is subject to all the duties, restrictions, penalties, and liabilities of a bank or trust company organized under IC 28-1 or a savings ~~and loan~~ association organized under IC 28-4 **(before its repeal) or under IC 28-15.**

SECTION 69. IC 28-6.1-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. A savings bank may deposit its funds in:

(1) a federally chartered savings ~~and loan~~ association; or

(2) a ~~building and loan association,~~ savings ~~and loan~~ association or other entity organized and operated according to federal law or the laws of a state or the District of Columbia;

the accounts of which are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation.

SECTION 70. IC 28-6.1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) As used in this chapter, "bank" means a financial institution that is either of the following:

(1) A bank that:

(A) has been organized or reorganized under the laws of the United States, any state of the United States, or the District of Columbia; and

(B) is an "insured bank" (as defined in Section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) eligible to make application to become an insured depository institution under Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815).

(2) Notwithstanding subsection (b), a savings bank formed as a result of conversion.

(b) The term does not include any of the following:

(1) An institution that has been or is chartered by the Federal Home Loan Bank Board or the Office of Thrift Supervision.

(2) Institutions of the "Farm Credit System" as described in 12

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U.S.C. 2001 through 2260, which include the Farm Credit Banks, the Federal Land Bank Associations, the Production Credit Associations, the Banks for Cooperatives, and any other institution that may become a part of the Farm Credit System, as chartered by and subject to the supervision of the Farm Credit Administration.

(3) Another institution that has been organized or reorganized as a savings ~~and loan association, a building and loan~~ association, a credit union, or an industrial loan and investment company.

SECTION 71. IC 28-6.1-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. A stock savings bank may convert into a state bank or a savings ~~and loan~~ association with the approval of the department.

SECTION 72. IC 28-6.1-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. Upon conversion, the new state bank or new savings ~~and loan~~ association:

(1) has all the rights, privileges, immunities, and powers of a bank organized under IC 28-1 or a savings ~~and loan~~ association organized under IC 28-4 **(before its repeal) or under IC 28-15;**

(2) is subject to all the duties, restrictions, penalties, and liabilities of a bank organized under IC 28-1 or a savings ~~and loan~~ association organized under IC 28-4 **(before its repeal) or under IC 28-15;** and

(3) is governed by IC 28-13.

SECTION 73. IC 28-6.1-16-2, AS AMENDED BY P.L.262-1995, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) With the approval of the department, a savings bank may convert into a savings ~~and loan association or a building and loan~~ association.

(b) Nothing in this title prohibits a savings bank organized under the laws of Indiana from converting to a savings association or a savings bank organized or reorganized under the laws of the United States. Conversion to a savings association or a savings bank organized under the laws of the United States does not require the approval of the department.

SECTION 74. IC 28-6.1-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. Upon conversion, the new savings ~~and loan~~ **association** has all the rights, privileges, immunities, and powers and, except as provided in this chapter, is subject to all the duties, restrictions, penalties, and liabilities of a savings ~~and loan~~ association organized under IC 28-4 **(before its repeal) or under IC 28-15.**

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SECTION 75. IC 28-6.2-1-19, AS ADDED BY P.L.122-1994, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) **As used in this chapter,** "savings association" means a savings association (as defined in 12 U.S.C. 1813(3)(b)(1)) the deposits of which are insured by the FDIC.

(b) The term includes:

(1) a federal savings association;

(2) a federal savings bank; and

(3) a ~~building and loan or~~ savings ~~and loan~~ association organized and operating under the laws of the state in which it is organized.

SECTION 76. IC 28-6.2-5-1, AS ADDED BY P.L.122-1994, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. A mutual holding company may do the following:

(1) Invest in or acquire control of:

(A) a bank, savings bank, or savings ~~and loan~~ association; or

(B) the holding company of a bank, savings bank, or savings ~~and loan~~ association.

(2) Acquire a mutual savings bank or mutual savings ~~and loan~~ association by merger with an interim or existing subsidiary savings bank of the mutual holding company from which the mutual holding company has members.

(3) Acquire control of another mutual holding company by:

(A) merging with or into it; or

(B) merging it with or into a subsidiary interim holding company;

with the consent of the department and subject to conditions the department may prescribe, upon an affirmative vote of at least two-thirds (2/3) of the board of each entity.

(4) Acquire control of a savings bank holding company or savings ~~and loan~~ association holding company in the stock form with the written approval of the department. An acquired holding company may be held as a subsidiary or merged into the mutual holding company.

(5) Invest in or acquire control of any corporation that is engaged exclusively in activities approved by the department.

(6) Invest in securities in which a savings bank may invest in under IC 28-6.1.

(7) Engage in activities in which a savings bank may engage in under IC 28-6.1.

(8) Furnish or perform management services for a subsidiary.

(9) Hold, manage, or liquidate assets owned or acquired from a

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subsidiary.

(10) Hold or manage property that the mutual holding company or a subsidiary uses.

(11) Engage in any activity that the federal reserve board permits a bank holding company to engage in under 12 CFR 225, subpart C, unless limited or prohibited by the department.

(12) Convert itself and any savings bank subsidiary into a mutual savings bank under a plan that:

(A) is approved by the department;

(B) provides that the converting mutual holding company ceases to engage in activities in which the converted savings bank may not engage; and

(C) provides that stock in a subsidiary savings bank that is not held by the converting mutual holding company is redeemed.

SECTION 77. IC 28-7-1-17, AS AMENDED BY P.L.192-1997, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. When making an application, a member shall state the security offered. Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer, except under conditions described in section 16(g) of this chapter. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, providing such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

(1) All loans shall be evidenced by notes signed by the borrowing member. A loan shall not be made to a member if it would cause the member to become indebted to the credit union in an aggregate amount in excess of ten percent (10%) of the total unimpaired shares and surplus.

(2) Unsecured loans shall not exceed five percent (5%) of the current assets of the credit union. The board of directors shall establish written lending policies and maintain such policies on file in the credit union. For the purposes of this section, an assignment of shares or the endorsement of a note is considered security.

(3) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the

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terms of the loan contract may provide for seasonal amortization.

(4) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (3). When the amount of a loan is at least two hundred fifty thousand dollars ($250,000), the fair cash value of real estate security shall be determined by a written appraisal made by one (1) or more qualified state licensed or certified appraisers designated by the board of directors. The credit union loan folder for real estate mortgage loans shall include, when applicable:

(A) the loan application;

(B) the mortgage instrument;

(C) the note;

(D) the disclosure statement;

(E) the documentations of property insurance;

(F) an appraisal on the real estate for which the loan is made; and

(G) the attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.

(5) The total unpaid balance of all loans authorized by this subdivision shall, at no time, exceed thirty-three and one-third percent (33 1/3%) of the total assets of the credit union at the time the loans are granted. This section does not limit unpaid balances secured by adjustable rate mortgages. Loans made upon security of real estate are subject to the following restrictions:

(A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.

(B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (6), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed ninety percent (90%) of the fair cash value of the real estate used as security, unless the excess of any loan over the authorized percentage of fair cash value is guaranteed or

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insured by a government agency or a private insurer authorized to engage in such business in Indiana.

(C) Real estate loans on unimproved real estate may be made only if such real estate is included as additional security on eligible improved residential real estate, or the funds borrowed will be used for the construction of improvements that will make such real estate eligible as security and the funds will be advanced as the work progresses. The terms of the loan shall require the borrower to commence development of the real estate within one (1) year after the date of the loan, shall require the payment of interest at least annually, shall mature within five (5) years, and shall not exceed seventy-five percent (75%) of the fair cash value of the real estate used as security. The fair cash value for purposes of this clause shall be based upon the condition of the real estate after such improvements have been made.

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed ninety percent (90%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (3).

(6) Subject to the limitations of subdivision (4), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered ~~building and loan~~ **savings** associations under IC ~~28-1-21.5~~ **IC 28-15-11** or federal credit unions. A credit union is not, however, subject to the limitations or rights set out in ~~IC 28-1-21-25.~~ **IC 28-15-6.**

(7) A credit union may participate with other financial institutions in making loans to credit union members and may sell a participating interest in any of its loans. However, the credit union may not sell more than ninety percent (90%) of the principal of participating loans outstanding at the time of sale.

(c) Nothing in this section prevents any credit union from taking an indemnifying or second mortgage on real estate as additional security.

SECTION 78. IC 28-8-4-1, AS AMENDED BY P.L.172-1997, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) This chapter does not apply to the following:

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

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

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

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

(1) licensed under this chapter; and

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

SECTION 79. IC 28-9-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. "Depository financial institution" means a financial institution that is organized or reorganized under Indiana law, the law of another state, or United States law. The term includes:

(1) a commercial bank;

(2) a trust company;

~~(3) a building and loan association;~~

~~(4)~~ **(3)** a credit union;

~~(5)~~ **(4)** a savings bank;

~~(6)~~ **(5)** a savings ~~and loan~~ association;

~~(7)~~ **(6)** a bank of discount and deposit;

~~(8)~~ **(7)** an industrial loan and investment company; or

~~(9)~~ **(8)** a similar financial institution to those listed in subdivisions (1) through ~~(8);~~ **(7);**

if that financial institution has the financial institution's principal place of business or a branch in Indiana.

SECTION 80. IC 28-10-1-3, AS AMENDED BY P.L.262-1995, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. For purposes of IC 28-12, "corporation" means any of the following:

(1) A bank and trust company.

(2) A bank.

(3) A ~~building and loan~~ **savings** association.

(4) A trust company.

(5) A stock savings bank.

(6) A corporate fiduciary.

SECTION 81. IC 28-10-1-4, AS AMENDED BY P.L.262-1995, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. For purposes of IC 28-13, "corporation" means any of the following:

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(1) A bank and trust company.
(2) A bank.
(3) A ~~building and loan~~ **savings** association.
(4) A mutual savings bank formed as the result of a conversion under IC 28-1-21.7 and governed by IC 28-6.1.
(5) A stock savings bank that was:
(A) formed as the result of a conversion under IC 28-1-21.8 or IC 28-1-21.9; or
(B) incorporated under IC 28-12; and
that is governed by IC 28-6.1.
(6) A trust company.
(7) A corporate fiduciary.

SECTION 82. IC 28-11-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) The ultimate authority for and the powers, duties, management, and control of the department are vested in seven (7) members appointed by the governor. The members must be appointed as follows:

(1) Two (2) members must have practical experience at the executive level of a state chartered bank.
(2) One (1) member must have practical experience at the executive level of a state chartered ~~building and loan~~ **savings** association or a state chartered savings bank.
(3) One (1) member must have practical experience at the executive level as a lender licensed under IC 24-4.5.
(4) One (1) member must have practical experience at the executive level of a state chartered credit union.
(5) Two (2) members must be appointed with due regard to a fair representation of the consumer, agricultural, industrial, and commercial interests of Indiana.

(b) Not more than four (4) members may be affiliated with the same political party.

SECTION 83. IC 28-11-5-1, AS AMENDED BY P.L.262-1995, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. This chapter applies to the following financial institutions:

(1) A bank.
(2) A ~~building and loan~~ **savings** association.
(3) A credit union.
(4) A savings bank.
(5) A trust company.
(6) A corporate fiduciary.

SECTION 84. IC 28-12-3-3, AS AMENDED BY P.L.262-1995,

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SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. (a) If the proposed corporation is organized to transact business under IC 28-1-11, the corporate name must include the word "bank" or "trust".

(b) If the proposed corporation is to be a corporate fiduciary, the corporate name of the corporation must include the word "trust" or "fiduciary".

~~(c) Except as otherwise permitted in IC 28-1-20-4(b), if the proposed corporation is a building and loan association, the corporate name must include the words "building and loan association", "savings and loan association", or "savings association". The corporate name may not include the word "rural" or "guaranty".~~

SECTION 85. IC 28-12-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 3. ~~(a) This section does not apply to a building and loan association operating solely upon the terminating plan.~~

~~(b)~~ The department shall determine the capital stock requirements of a ~~building and loan~~ **savings** association organized or reorganized under this title after giving consideration to the following:

(1) In the case of a proposed new ~~building and loan~~ **savings** association, the potential deposit liability anticipated.

(2) In the case of a ~~building and loan~~ **savings** association to be reorganized, the existing deposit liability.

SECTION 86. IC 28-13-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) Shares may be represented by certificates. Unless this article or another statute expressly provides otherwise, the rights and obligations of shareholders of the same class or series of shares are identical whether or not the shares are represented by certificates.

(b) At a minimum each share certificate must state on the certificate face the following:

(1) The name of the issuing corporation and that the corporation is organized under Indiana law.

(2) The name of the person to whom issued.

(3) The number and class of shares and the designation of the series, if any, the certificate represents.

(c) If the issuing corporation is authorized to issue different classes of shares or different series within a class:

(1) the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series and the authority of the board of directors to determine variations for future series must

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be summarized on the front or back of each certificate; or

(2) each certificate may state conspicuously on the front or back that the corporation will furnish the shareholder this information on request in writing and without charge.

(d) Each share certificate:

(1) must be signed either manually or in facsimile by at least two

(2) officers designated in the bylaws or by the board of directors; ~~except that where the corporation is a building and loan association, the certificate may be signed by any one (1) officer or employee designated by the board of directors;~~ and

(2) may bear the seal or a facsimile of the seal of the corporation.

(e) If the person who signed either manually or in facsimile a share certificate no longer holds office when the certificate is issued, the certificate remains valid.

SECTION 87. IC 28-13-6-2, AS AMENDED BY P.L.192-1997, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Except as provided in subsections (b), (c), (d), and (e) or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, is entitled to one (1) vote on each matter voted on at a shareholders' meeting.

(b) Absent special circumstances, the shares of a corporation are not entitled to vote if the shares are owned, directly or indirectly, by a second corporation, domestic or foreign, and the corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Subsection (b) does not limit the power of a corporation to vote any shares, including its own shares, held by the corporation in or for an employee benefit plan or in any other fiduciary capacity.

(d) Redeemable shares are not entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a corporation, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

(e) If the corporation is a mutual ~~building and loan~~ **savings** association, each shareholder is entitled at every shareholders' meetings to cast one (1) vote for each one hundred dollars ($100) or fraction thereof of the total amount paid in on all shares standing in the shareholder's name on the books of the association, **unless the articles of incorporation provide otherwise**. Each borrowing member who is not a shareholder is entitled to cast one (1) vote as a borrower. A person may not, except as proxy, cast more than fifty (50) votes at any election held by the association.

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(f) Except as provided in subsection (g), if the corporation is a mutual savings bank, each member is entitled at a members' meeting to cast one (1) vote for each one hundred dollars ($100) or fraction of one hundred dollars ($100) of the total amount paid in on all deposits in the member's name on the books of the mutual savings bank. Each borrowing member is entitled to cast one (1) vote as a borrower. A person may not, except as proxy, cast more than fifty (50) votes at an election held by the mutual savings bank unless a greater number of votes is permitted in the articles of mutual savings bank conversion adopted under IC 28-1-21.7.

(g) Notwithstanding subsection (f), a mutual savings bank formed by charter conversion may provide in the articles of mutual bank conversion that only depositors are voting members of the mutual savings bank.

SECTION 88. IC 28-13-6-6, AS AMENDED BY P.L.122-1994, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. (a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation or this article require a greater number, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a share is represented for any purpose at a meeting, the share is considered present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter other than the election of directors by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or this article require a greater number of affirmative votes.

(d) The election of directors is governed by section 9 of this chapter.

(e) Any number of members represented either in person or by proxy constitutes a quorum of members at a regular or special members meeting of a mutual savings bank or a mutual ~~building and loan~~ **savings** association.

SECTION 89. IC 30-2-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) Any payment of money made to any person, firm, partnership, association, limited liability company, or corporation, other than a bank or trust company, upon any agreement or contract, or any series or combination of

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agreements or contracts, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, for future use at a time determinable by the death of the person or persons whose body or bodies are to be so disposed of, shall be held to be trust funds, and the person, firm, partnership, association, or corporation receiving said payments is hereby declared to be a trustee thereof. This subsection applies only to such a contract or agreement executed before July 1, 1978.

(b) After June 30, 1978, it is unlawful to enter into any agreement or contract for a purpose described in subsection (a) unless the agreement or contract requires that all payments be made by the settlor to an account in a:

(1) bank;

(2) trust company;

(3) savings ~~and loan~~ association; **or**

~~(4) building and loan association; or~~

~~(5)~~ **(4)** credit union;

whose principal office is in Indiana.

(c) Nothing contained in this chapter shall be deemed or construed to apply to those persons, firms, partnerships, associations, limited liability companies, or corporations covered by the "Indiana General Cemetery Law", IC 23-14-1.

SECTION 90. IC 30-2-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. It is unlawful to enter into any agreement or contract for a purpose described in section 1 of this chapter unless the agreement or contract requires that all payments be made by the settlor to an account in a:

(1) bank;

(2) trust company;

(3) savings ~~and loan~~ association; **or**

~~(4) building and loan association; or~~

~~(5)~~ **(4)** credit union;

whose principal office is in Indiana.

SECTION 91. IC 30-2-13-11, AS AMENDED BY P.L.241-1995, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) As used in this chapter, "trustee" means a:

(1) bank;

(2) trust company;

(3) savings ~~and loan~~ association; **or**

~~(4) building and loan association; or~~

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~~(5)~~ **(4)** credit union;

that maintains an office in Indiana and is qualified under state or federal law to serve as a trustee.

(b) For a contract using a life insurance policy as consideration, the term also includes a life insurance company that establishes a trust for the purposes of holding and administering life insurance policies and annuity contracts issued by the company to fund contracts under this chapter.

SECTION 92. IC 30-5-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Language conferring general authority with respect to banking transactions means the principal authorizes the attorney in fact to do the following:

(1) Continue, modify, or terminate a deposit account or other banking arrangement made by or on behalf of the principal before the execution of the power of attorney.

(2) Open in the name of the principal alone, or in a way that clearly evidences the principal and attorney in fact relationship, a deposit account with a bank, trust company, savings ~~and loan~~ association, credit union, thrift company, brokerage firm, or other institution that serves as a depository for funds selected by the attorney in fact, or hire a safe deposit box or vault space and make other contracts to procure services made available by a banking institution as the attorney in fact considers desirable.

(3) Make, sign, and deliver checks or drafts for any purpose and withdraw by check, order, or other means funds or property of the principal deposited with or left in the custody of a banking institution either before or after the power of attorney was executed.

(4) Prepare necessary financial statements of assets and liabilities or income and expenses of the principal for submission to a banking institution.

(5) Receive statements, vouchers, notices, or other documents from a banking institution and act with respect to the documents.

(6) Enter at any time a safe deposit box or vault that the principal could enter if personally present.

(7) Borrow money at an interest rate the attorney in fact selects, pledge as security assets of the principal the attorney in fact considers desirable or necessary for borrowing, and pay, renew, or extend the time of the payment of a debt of the principal.

(8) Make, assign, pledge, draw, endorse, discount, guarantee, and negotiate promissory notes, bills of exchange, checks, drafts, or other negotiable or nonnegotiable paper of the principal or

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payable to the principal or the principal's order, receive cash or other proceeds of a transaction authorized under this subdivision, accept a bill of exchange or draft drawn by another person upon the principal, and pay a bill of exchange or a draft when the bill of exchange or draft is due.

(9) Receive for the principal and deal in or deal with a sight draft, warehouse receipt, or other negotiable or nonnegotiable instrument in which the principal has or claims to have an interest.

(10) Apply for and receive letters of credit for a banking institution selected by the attorney in fact giving indemnity or other agreement in connection with letters of credit the attorney in fact considers desirable or necessary.

(11) Consent to an extension in the time of payment with respect to a commercial paper or banking transaction in which the principal has an interest or by which the principal is or might be affected in any way.

(12) Demand, receive, or obtain by action or proceeding money or other things of value to which the principal is, may become, or claims to be entitled as the proceeds of a banking transaction, and reimburse the attorney in fact for expenditures properly made in the execution of powers conferred upon the attorney in fact under this section.

(13) Execute, acknowledge, and deliver an instrument in the name of the principal or other person the attorney in fact considers useful to accomplish a purpose permitted under this section.

(14) Prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to a claim existing in favor of or against the principal based on or involving a banking transaction, or intervene in a related action or proceeding.

(15) Hire, discharge, and compensate an attorney, accountant, expert witness, or other assistant when the attorney in fact considers the action to be desirable for the proper execution by the attorney in fact of a power described in this section and keep needed records.

(16) Perform any other acts with respect to a bond, a share, an instrument of similar character, a commodity, or an interest with respect to a commodity.

(b) The powers described in this section are exercisable equally with respect to a banking transaction engaged in by the principal at the time of the giving of the power of attorney or engaged in after that time, whether conducted in Indiana or in another jurisdiction.

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SECTION 93. IC 32-1-6-22, AS AMENDED BY P.L.2-1995, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 22. (a) Except as provided in subsection (d) or (e), the co-owners are bound to contribute pro rata, in the percentages computed according to section 7 of this chapter, toward the expenses of administration and of maintenance and repair of the general common areas and facilities, and, in the proper case, of the limited common areas and facilities of the building, and toward any other expense lawfully agreed upon.

(b) No co-owner may exempt himself from contributing toward such expenses by waiver of the use or enjoyment of the common areas and facilities or by abandonment of the condominium unit belonging to him.

(c) All sums assessed by the association of co-owners shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the common areas and facilities, which funds shall be used for those purposes and not for usual and ordinary repair expenses of the common areas and facilities. This fund for capital expenditures and replacement and repair of common areas and facilities shall be maintained in a separate interest bearing account with a bank or savings ~~and loan~~ association authorized to conduct business in the county in which the horizontal property regime is established. Assessments collected for contributions to this fund may not be subject to Indiana gross income tax or adjusted gross income tax.

(d) If the declaration so provides, the declarant or a developer (or a successor in interest of either) that is a co-owner of unoccupied condominium units offered for the first time for sale is excused from contributing toward the expenses referred to in subsection (a) for those units for a period of time that:

(1) is stated in the declaration;

(2) begins on the day that the declaration is recorded; and

(3) terminates no later than the first day of the twenty-fourth calendar month following the month in which the closing of the sale of the first condominium unit occurs.

However, if the expenses referred to in subsection (a) that are incurred during the stated period exceed the amount assessed against the other co-owners, then the declarant, developer, or successor shall pay the excess.

(e) If the declaration does not contain the provisions referred to in subsection (d), the declarant or a developer (or a successor in interest

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of either) that is a co-owner of unoccupied condominium units offered for the first time for sale is excused from contributing toward the expenses referred to in subsection (a) for those units for a stated period of time if the declarant, developer, or successor:

(1) has guaranteed to each purchaser (either in the purchase contract, in the declaration, in the prospectus, or by an agreement with a majority of the other co-owners) that the assessment for those expenses will not increase over a stated dollar amount during the stated period; and

(2) has obligated itself to pay any amount of those expenses incurred during the stated period and not produced by the assessments at the guaranteed level receivable from the other co-owners.

SECTION 94. IC 32-2-1.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this chapter, "creditor" means:

(1) a bank, savings bank, trust company, savings ~~and loan~~ association, credit union, industrial loan and investment company, or any other financial institution regulated by any agency of the United States or any state, including a consumer finance institution licensed to make supervised or regulated loans under IC 24-4.5;

(2) a person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, make loans guaranteed by the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development or guaranteed by the United States Department of Veterans Affairs; and

(3) an insurance company or its affiliates; who extends credit under a credit agreement with a debtor.

SECTION 95. IC 32-9-1.5-6, AS ADDED BY P.L.31-1995, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 6. As used in this chapter, "business association" means a corporation, a limited liability company, a joint stock company, an investment company, a partnership, a business trust, a trust company, a savings ~~and loan~~ association, ~~a building and loan association,~~ a savings bank, an industrial bank, a land bank, a safe deposit company, a safekeeping depository, a bank, a banking

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organization, a financial organization, an insurance company, a mutual fund, a credit union, a utility, or other association for business purposes of two (2) or more individuals, whether or not for profit.

SECTION 96. IC 32-9-1.5-7.5, AS ADDED BY P.L.201-1997, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7.5. As used in this chapter, "financial institution" means:

(1) a commercial bank;

(2) a trust company;

(3) ~~a building and loan association;~~

~~(4)~~ a savings bank;

~~(5)~~ **(4)** a savings association;

~~(6)~~ **(5)** a credit union;

~~(7)~~ **(6)** an industrial loan and investment company; or

~~(8)~~ **(7)** any other entity that has powers similar to the powers of an entity described in subdivisions (1) through ~~(7);~~ **(6);**

organized or reorganized under the laws of the United States or a state.

SECTION 97. IC 33-16-2-7, AS AMENDED BY P.L.218-1996, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. No person, being an officer in any corporation or association possessed of any banking powers, shall act as a notary public in the business of such corporation or association. The aforesaid prohibition shall not apply to employees of any such corporation or association. However, a person who is a shareholder or member of a ~~building and loan association or~~ savings ~~and loan~~ association may act as a notary public in the business of such association and an officer and employee of a bank may become and act as a notary public in the business of the bank. No person holding any lucrative office or appointment under the United States or under this state, and prohibited by the Constitution of this state from holding more than one (1) such lucrative office, shall serve as a notary public, and his acceptance of any such office shall vacate his appointment as such notary; but this provision shall not apply to any person holding any lucrative office or appointment under any civil or school city or town of this state. No person, being a public official, or a deputy or appointee acting for or serving under the same, shall make any charge for services as a notary public in connection with any official business of such office, or of any other office in the governmental unit in which such persons are serving, unless such charges are specifically authorized by some statute other than the statute fixing generally the fees and charges of notaries public.

SECTION 98. IC 33-20-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 4. "Depository financial

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institution" means a bank, a bank or trust company, a credit union, an industrial loan and investment company, a savings bank, or a savings ~~and loan~~ association, whether chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

(1) does business in Indiana; and

(2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternate share insurer.

SECTION 99. IC 34-2-34-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The provisions of this chapter shall not apply to nor affect in any way the status of any national bank or banking institution; any federal building and savings association, or any ~~building and loan~~ **savings** association whether organized under any federal or state laws.

SECTION 100. IC 35-41-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. "Credit institution" means a bank, insurance company, credit union, ~~building and loan~~ **savings** association, investment trust, industrial loan and investment company, or other organization held out to the public as a place of deposit of funds or a medium of savings or collective investment.

SECTION 101. IC 35-43-5-12, AS ADDED BY P.L.161-1994, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 12. (a) As used in this section, "financial institution" refers to a state or federally chartered bank, savings bank, ~~building and loan association,~~ savings association, or credit union.

(b) A person who knowingly or intentionally obtains property, through a scheme or artifice, with intent to defraud:

(1) by issuing or delivering a check, a draft, an electronic debit, or an order on a financial institution:

(A) knowing that the check, draft, order, or electronic debit will not be paid or honored by the financial institution upon presentment in the usual course of business;

(B) using false or altered evidence of identity or residence;

(C) using a false or an altered account number; or

(D) using a false or an altered check, draft, order or electronic instrument;

(2) by:

(A) depositing the minimum initial deposit required to open an account; and

(B) either making no additional deposits or making insufficient additional deposits to insure debits to the account; or

(3) by opening accounts with more than one (1) financial

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institution in either a consecutive or concurrent time period; commits check fraud, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction under this section or the aggregate amount of property obtained is at least twenty-five thousand dollars ($25,000).

SECTION 102. IC 36-2-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) As used in this section, "financial institution" means any of the following:

(1) A bank, trust company, or mutual savings bank incorporated under Indiana law.

(2) A national banking association with its principal office in Indiana.

(3) A ~~building and loan~~ **savings** association operating ~~as a deposit association incorporated~~ under Indiana law.

(4) A federally chartered savings ~~and loan~~ association with its principal office or a branch in Indiana.

(5) A federally chartered savings bank with its principal office or a branch in Indiana.

(6) A credit union chartered under Indiana law or United States law having its principal office in Indiana.

(b) The treasurer may designate one (1) or more financial institutions in the county as the treasurer's agent for collecting payments of taxes that are not delinquent.

(c) A designated financial institution may issue an official receipt of the treasurer for taxes the financial institution collects.

(d) A designated financial institution shall make a daily settlement with the treasurer for all taxes the financial institution collects.

(e) A designated financial institution is responsible for all taxes the financial institution collects.

(f) This section does not affect IC 5-13.

SECTION 103. IC 36-7-11.9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. "Lender" means any federal or state chartered bank, federal land bank, savings ~~and loan~~ association, ~~building and loan association,~~ production credit association, bank for cooperatives, or small business investment company, and includes any other institution qualified to originate and service loans, such as an insurance company, credit union, or mortgage loan company.

SECTION 104. IC 36-7-18-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 19. (a) A housing authority may invest any money that is held in reserves or sinking funds, or that is not required for immediate disbursement, in:

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(1) property or securities in which savings banks may invest money subject to their control;

(2) the shares of any federal savings association or federal savings bank that is organized under the Home Owners' Loan Act of 1933, (12 U.S.C. 1461, 1462, 1464 through 1466a, and 1468 through 1470), as in effect on December 31, 1990, and has its principal office in Indiana; and

(3) the shares of any ~~building and loan association or~~ savings ~~and loan~~ association that is organized under Indiana statutes and the accounts of which are insured by the Federal Deposit Insurance Corporation as provided in 12 U.S.C. 1811 through 1833e, as in effect on December 31, 1990.

However, the value of shares purchased under subdivision (2) or (3) may not exceed the amount of insurance protection afforded a member or investor of the association.

(b) A housing authority may cancel its bonds, notes, or warrants after purchasing them for not more than their principal amount plus accrued interest.

SECTION 105. IC 36-8-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 10. (a) The local board shall determine how much of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings ~~and loan~~ association organized under 12 U.S.C. ~~section~~ 1461, as amended, and having its principal office in Indiana, or of a ~~building and loan association or~~ savings ~~and loan~~ association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(b) All securities must be kept on deposit with the unit's fiscal

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officer, or county treasurer acting under IC 36-4-10-6, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (or county treasurer) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that he will faithfully discharge the duties of his office and faithfully account for and pay over to the persons authorized to receive it all money that comes into his hands by virtue of his office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (or county treasurer) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 106. IC 36-9-27-97.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 97.5. (a) Whenever the board determines by resolution spread upon its minutes that the cost of constructing or reconstructing a particular drain is an amount that the owners of land to be assessed may conveniently pay in installments over a five (5) year period, it may ask the county fiscal body to:

(1) obtain a loan from a bank, trust company, ~~building and loan~~ **savings** association, or savings bank authorized to engage in business in the county; or

(2) obtain funds in the manner prescribed by IC 36-2-6-18, IC 36-2-6-19, and IC 36-2-6-20;

to finance that construction or reconstruction.

(b) A loan obtained under this section:

(1) must have a fixed or variable interest rate;

(2) must mature within six (6) years after the day it is obtained;

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(3) shall be repaid from installments collected from assessments of landowners over a five (5) year period; and

(4) is not subject to the provisions of section 94 of this chapter that concern interest.

(c) The proceeds of loans obtained under this section shall be deposited in the general drain improvement fund.

(d) The board shall determine whether interest on the loan is to be a part of the final assessment under section 84(a) of this chapter.

(e) Notwithstanding section 85(c) of this chapter, interest on the loan may be charged back to the benefited landowner at a rate that is set in accordance with subsection (b).

SECTION 107. IC 36-10-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 21. (a) In anticipation of funds to be received from any source, the board may borrow money and issue notes for a term not exceeding ten (10) years and at a rate or rates of interest determined by the board. The notes shall be issued in the name of the "capital improvement board of managers of _____ county" and may be secured (either on a parity with or junior and subordinate to any outstanding bonds or notes) by:

(1) the pledge of income and revenues of any capital improvement;

(2) the proceeds of excise taxes; or

(3) any other funds anticipated to be received.

The notes are payable solely from the income, excise taxes, revenues, and anticipated funds.

(b) The financing may be negotiated directly by the board with any bank, insurance company, savings ~~and loan~~ association, or other financial institution licensed to do business in Indiana upon the terms and conditions that are agreed upon, except as specifically provided in this section, and may be consummated without public offering. The notes plus interest are exempt from taxation in Indiana as provided for bonds in IC 6-8-5.

SECTION 108. IC 28-13-4-8 IS REPEALED [EFFECTIVE JULY 1, 1998].

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