



Reprinted  
February 22, 2000

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## ENGROSSED SENATE BILL No. 351

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DIGEST OF SB 351 (Updated February 21, 2000 6:00 PM - DI 94)

**Citations Affected:** IC 5-13.

**Synopsis:** Sweep account references. Eliminates references to sweep accounts in the language on the investment of public funds. Allows a condominium association's fund for capital expenditures and replacement and repair of common areas and facilities to be invested in the same manner as state investments.

**Effective:** July 1, 2000.

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**Clark, Lewis**

(HOUSE SPONSORS — BODIKER, YOUNT)

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January 10, 2000, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 27, 2000, amended, reported favorably — Do Pass.

January 31, 2000, read second time, ordered engrossed.

February 1, 2000, engrossed.

February 7, 2000, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 10, 2000, read first time and referred to Committee on Financial Institutions.

February 16, 2000, reported — Do Pass.

February 21, 2000, read second time, amended, ordered engrossed.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## ENGROSSED SENATE BILL No. 351

A BILL FOR AN ACT to amend the Indiana Code concerning investment of public funds.

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

- 1 SECTION 1. IC 5-13-9-3 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) As used in this section,  
3 "repurchase agreement" means an agreement:  
4 (1) involving the purchase and guaranteed resale of securities  
5 between two (2) parties; and  
6 (2) that may be entered into for a fixed term or arranged on an  
7 open or a continuing basis as a continuing contract that:  
8 (A) operates like a series of overnight repurchase agreements;  
9 (B) is renewed each day with the repurchase rate and the  
10 amount of funds invested determined daily; and  
11 (C) for purposes of this article, is considered to have a stated  
12 final maturity of one (1) day.  
13 (b) Each officer designated in section 1 of this chapter may enter  
14 into, with any funds that are held by the officer and available for  
15 investment, repurchase agreements: ~~(including standing repurchase~~  
16 ~~agreements: commonly known as sweep accounts):~~  
17 (1) with depositories designated by the state board of finance as

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1 depositories for state deposits under IC 5-13-9.5; and  
 2 (2) involving the political subdivision's purchase and guaranteed  
 3 resale of any interest-bearing obligations:

4 (A) issued; or

5 (B) fully insured or guaranteed;

6 by the United States, a United States government agency, an  
 7 instrumentality of the United States, or a federal government  
 8 sponsored enterprise.

9 The depository shall determine daily that the amount of money in this  
 10 type of agreement must be fully collateralized by interest-bearing  
 11 obligations as determined by their current market value. The collateral  
 12 for this type of agreement is not subject to the provisions of section  
 13 2(c) of this chapter.

14 (c) If the market value of the obligations being held as collateral  
 15 falls below the level required under subsection (b) or a higher level  
 16 established by agreement, the depository shall deliver additional  
 17 securities to the political subdivision to make the agreement  
 18 collateralized to the applicable level. The collateral involved in a  
 19 repurchase agreement entered into under this section is not subject to  
 20 the maturity limitation provided in section 5.6 of this chapter.

21 (d) A political subdivision may invest in repurchase agreements  
 22 without entering into a contract under IC 5-13-11 for an investment  
 23 cash management system.

24 SECTION 2. IC 5-13-10.5-9 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) A public officer  
 26 of the state may invest any funds held by the officer and available for  
 27 investment into agreements, commonly known as repurchase or resale  
 28 agreements ~~(including standing repurchase or resale agreements);~~  
 29 ~~commonly known as sweep accounts);~~ with depositories designated by  
 30 the state board of finance as depositories for state deposits, involving  
 31 the purchase and guaranteed resale of any interest-bearing obligations  
 32 that are:

33 (1) issued; or

34 (2) fully insured or guaranteed;

35 by the United States, any United States government agency, any  
 36 instrumentality of the United States government, or any federal  
 37 government sponsored enterprise. The amount of money in this type of  
 38 agreement must be fully collateralized by interest-bearing obligations  
 39 as determined by the current market value computed on the day on  
 40 which a transaction is effective.

41 (b) The collateral for the type of agreement described in subsection  
 42 (a) is not subject to the maturity limitation in section 3 of this chapter.



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1 SECTION 3. IC 32-1-6-22 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. (a) Except as  
 3 provided in subsection (d) or (e), the co-owners are bound to contribute  
 4 pro rata, in the percentages computed according to section 7 of this  
 5 chapter, toward the expenses of administration and of maintenance and  
 6 repair of the general common areas and facilities, and, in the proper  
 7 case, of the limited common areas and facilities of the building, and  
 8 toward any other expense lawfully agreed upon.

9 (b) No co-owner may exempt himself from contributing toward such  
 10 expenses by waiver of the use or enjoyment of the common areas and  
 11 facilities or by abandonment of the condominium unit belonging to  
 12 him.

13 (c) All sums assessed by the association of co-owners shall be  
 14 established by using generally accepted accounting principles applied  
 15 on a consistent basis and shall include the establishment and  
 16 maintenance of a replacement reserve fund for capital expenditures and  
 17 replacement and repair of the common areas and facilities, which funds  
 18 shall be used for those purposes and not for usual and ordinary repair  
 19 expenses of the common areas and facilities. This fund for capital  
 20 expenditures and replacement and repair of common areas and  
 21 facilities shall be:

- 22 (1) maintained in a separate interest bearing account with a bank  
 23 or savings association authorized to conduct business in the  
 24 county in which the horizontal property regime is established; **or**  
 25 (2) **invested under IC 5-13-9 in the same manner as state**  
 26 **investments.**

27 Assessments collected for contributions to this fund may not be subject  
 28 to Indiana gross income tax or adjusted gross income tax.

29 (d) If the declaration so provides, the declarant or a developer (or a  
 30 successor in interest of either) that is a co-owner of unoccupied  
 31 condominium units offered for the first time for sale is excused from  
 32 contributing toward the expenses referred to in subsection (a) for those  
 33 units for a period of time that:

- 34 (1) is stated in the declaration;  
 35 (2) begins on the day that the declaration is recorded; and  
 36 (3) terminates no later than the first day of the twenty-fourth  
 37 calendar month following the month in which the closing of the  
 38 sale of the first condominium unit occurs.

39 However, if the expenses referred to in subsection (a) that are incurred  
 40 during the stated period exceed the amount assessed against the other  
 41 co-owners, then the declarant, developer, or successor shall pay the  
 42 excess.

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1 (e) If the declaration does not contain the provisions referred to in  
2 subsection (d), the declarant or a developer (or a successor in interest  
3 of either) that is a co-owner of unoccupied condominium units offered  
4 for the first time for sale is excused from contributing toward the  
5 expenses referred to in subsection (a) for those units for a stated period  
6 of time if the declarant, developer, or successor:  
7 (1) has guaranteed to each purchaser (either in the purchase  
8 contract, in the declaration, in the prospectus, or by an agreement  
9 with a majority of the other co-owners) that the assessment for  
10 those expenses will not increase over a stated dollar amount  
11 during the stated period; and  
12 (2) has obligated itself to pay any amount of those expenses  
13 incurred during the stated period and not produced by the  
14 assessments at the guaranteed level receivable from the other  
15 co-owners.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 351, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 15, after "agreements" insert ":",

Page 1, line 15, strike "(including standing repurchase".

Page 1, line 16, strike "agreements:".

Page 2, line 28, strike "(including standing repurchase or resale agreements)",

and when so amended that said bill do pass.

(Reference is to SB 351 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred Senate Bill 351, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BODIKER, Chair

Committee Vote: yeas 9, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 351 be amended to read as follows:

Page 2, after line 42 , begin a new paragraph and insert:

“SECTION 3. IC 32-1-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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:

- (1) maintained in a separate interest bearing account with a bank or savings association authorized to conduct business in the county in which the horizontal property regime is established; **or**
- (2) **invested under IC 5-13-9 in the same manner as state investments.**

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.

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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 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."

Renumber all SECTIONS consecutively.

(Reference is to ESB351 as printed February 17, 2000.)

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