SENATE BILL No. 552

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-10-18-13; IC 5-11-14-1; IC 5-13; IC 5-20-4-7; IC 8-5-15-5; IC 28-1-2-40; IC 34-30-2; IC 36-8-8.5-17; IC 36-10-8-11; IC 36-10-9-9.

Synopsis: Public deposits. Allows the board for depositories to merge with a domestic nonprofit corporation if certain conditions are met, including the approval of a resolution of merger and conversion by the board of directors and voting members of the domestic nonprofit corporation. Requires the surviving nonprofit corporation of the merger, known as the public deposit insurance corporation, to deliver to the secretary of state articles of merger that include certain information regarding the merger. Allows the secretary of state to approve or disapprove the articles of merger. Establishes the effect of the merger, including that the: (1) surviving nonprofit corporation does not have the statutory rights, privileges, immunities, and powers and is not subject to the statutory duties, restrictions, penalties, and liabilities of the board for depositories unless specifically expressed otherwise in law; and (2) title to real property and other property owned by each party to the merger is vested in the surviving nonprofit corporation, including the public deposit insurance fund (which, under the management of the public deposit insurance corporation, is called the corporation insurance fund). Requires the merging nonprofit corporation to comply with the laws relating to mergers of nonprofit corporations except for a provision that requires court approval or when the requirements are otherwise inconsistent with the provisions governing the merger with the board for depositories. Provides that all property in the corporation insurance fund and all property otherwise held by the public deposit insurance corporation is exempt from all taxes imposed by the state or any political subdivision. Establishes certain immunity for members of the board of directors and any

(Continued next page)

Effective: Upon passage; July 1, 2013.

Holdman

January 14, 2013, read first time and referred to Committee on Tax and Fiscal Policy.

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officers, members, or employees of the public deposit insurance corporation. Provides for the expiration of provisions that: (1) create the board for depositories; and (2) establish the duties, restrictions, penalties, and liabilities regarding the board for depositories and the management of the public deposit insurance fund. Allows the secretary of state to file an affidavit with the governor requesting that the board for depositories continue administering the public deposit insurance fund if the board for depositories and a nonprofit corporation fail to merge by a certain date and requires the governor, within 10 days, to issue an executive order that allows the board for depositories to continue to administer the public deposit insurance fund until a certain date. Changes references from the "board for depositories" to the "public deposit insurance corporation". Changes references from the "public deposit insurance fund" to the "corporation insurance fund". Makes other changes related to the expiration of the provisions regarding the board for depositories. Provides that interest earnings on the public deposit insurance fund remain in the fund for the period July 1, 2013, through the expiration of the law establishing the fund, and makes a general fund appropriation to the pension distribution fund in the amount equal to the interest earnings that would have been transferred from the public deposit insurance fund to the pension distribution fund. Appropriates $50,000,000 from the state general fund to the budget agency to pay back the 2004 loan from the public deposit insurance fund.

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Introduced

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 552

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. IC 4-10-18-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. ~~(a) The state board of finance constituted by IC 4-9.1-1-1 shall promptly sell from the fund, and the board for depositories created by IC 5-13-12-1 shall promptly purchase from the fund, the loan made by the board of finance under section 10(i) of this chapter.~~

~~(b) The loan shall be sold by the board of finance and purchased by the board for depositories at a purchase price equal to the total of:~~

~~(1) the principal amount of the loan;~~

~~(2) the deferred interest payable thereon; and~~

~~(3) accrued interest to the date of purchase by the board for depositories.~~

~~(c)~~ Proceeds of the ~~sale of the~~ **2004** loan **made by the state board of finance under section 10(i) of this chapter,** less the reasonable expenses incurred by the board of finance and the board for

depositories in connection with the sale, ~~shall be deposited~~ **which were deposited** by the board of finance in a segregated account in the fund ~~(to be~~ (known as the economic growth initiatives account) **must remain on deposit** for the purpose of providing grants for the purposes described in section 15 of this chapter.

SECTION 2. IC 5-11-14-1, AS AMENDED BY P.L.169-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) As used in this section, "official" includes the following:

(1) An elected official who is entitled to attend a conference under this section.

(2) An individual elected to an office who is entitled to attend a conference under this section.

(3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

(1) County auditors and auditors elect.

(2) County treasurers and treasurers elect.

(3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

(1) must be held at a time and place fixed by the state examiner;

(2) may be held statewide or by district; and

(3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

(1) The proper use of forms prescribed by the state board of accounts.

(2) The keeping of the records of the respective offices.

(3) At the conference for county treasurers and treasurers elect, investment training by the following:

(A) The treasurer of state.

~~(B) The board for depositories.~~

~~(C)~~ **(B)** Any other person the state examiner considers to be competent in providing investment training.

(4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

(1) the officials described in subsection (b); or

(2) other county, city, or township officers;

whenever in the judgment of the state examiner conferences are

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necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:

(1) each of the elected official's appointed and acting chief deputies or chief assistants; and

(2) if the number of deputies or assistants employed:

(A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official representing a unit and attending any conference under this section shall be allowed the following:

(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.

(2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.

(3) Reimbursement of an official, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.

SECTION 3. IC 5-13-4-2 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2013]: Sec. 2. "Board for depositories" refers to the board established under IC 5-13-12 **(before its expiration).**

SECTION 4. IC 5-13-4-5 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 5. "Credit enhancement" means any letter of credit, insurance, guarantee, or other credit enhancement issued by an issuer approved by the board for depositories, which is used to secure debt or leasehold financing for an industrial development obligation.~~

SECTION 5. IC 5-13-4-6 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 6. "Credit enhancement obligation" means the obligation of the developers of an industrial development project under the documents related to the credit enhancement.~~

SECTION 6. IC 5-13-4-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. "Corporation insurance fund" refers to the insurance fund for public deposits operated and managed by the public deposit insurance corporation as the nonprofit corporation that is the surviving entity of the merger under IC 5-13-12.5.**

SECTION 7. IC 5-13-4-13 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 13. "Industrial development obligation" means any loan or lease by a lender or lessor approved by the board for depositories as responsible and able to service the loan or lease properly, which is used to finance all or any portion of the cost of an industrial development project.~~

SECTION 8. IC 5-13-4-14 IS REPEALED [EFFECTIVE JULY 1, 2013]. ~~Sec. 14. "Industrial development project" has the meaning set forth in IC 4-4-10.9-11 and includes mining operations, agricultural operations that involve the processing of agricultural products, and any other type of business project for which the Indiana finance authority may make a loan or lease guarantee.~~

SECTION 9. IC 5-13-4-15 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 15. "Insurance fund" refers to the public deposits insurance fund created by IC 5-13-12.~~

SECTION 10. IC 5-13-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 19. (a) Except as provided in subsections (b) and (c), "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) A hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 is considered a political subdivision only for purposes of IC 5-13-12 **(before its expiration)** and IC 5-13-13.

(c) For purposes of IC 5-13-7 and IC 5-13-8, the term does not include a city or a town.

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SECTION 11. IC 5-13-4-19.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.5. "Public deposit insurance corporation" refers to the nonprofit corporation that:**

(1) is the surviving nonprofit corporation into which the board for depositories and a domestic nonprofit corporation merged under IC 5-13-12.5; and

(2) operates and manages the corporation insurance fund.

SECTION 12. IC 5-13-4-19.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.7. "Public deposit insurance fund" refers to the public deposit insurance fund created by IC 5-13-12 (before its expiration).**

SECTION 13. IC 5-13-5-0.3, AS ADDED BY P.L.220-2011, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 0.3. (a) P.L.19-1987 is intended to restate the law affecting the public deposit insurance fund and the board for depositories. The substantive operation of the public deposit insurance fund and the board for depositories, established under IC 5-12-1-19.1 (before its repeal), continues uninterrupted under IC 5-13-12 ~~as added by P.L.19-1987,~~ **(before its expiration).**

(b) P.L.19-1987 does not affect rights or liabilities of the public deposit insurance fund and board for depositories accrued before May 6, 1987.

SECTION 14. IC 5-13-5-6, AS ADDED BY P.L.16-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) A financial institution that is a depository for the state on March 21, 1996, and any successor financial institution, continues to be a depository for the state after March 21, 1996, without reapplying under IC 5-13-10.5, until the earliest of the following occurs:

(1) The ~~board of depositories~~ **public deposit insurance corporation** revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance that the financial institution is resigning as a depository for the state.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for the state after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-10.5.

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(b) A financial institution that is a depository for a political subdivision on March 21, 1996, and any successor financial institution continues to be a depository for the political subdivision after March 21, 1996, without reapplying under IC 5-13-10.5 or IC 5-13-8-1, until the earliest of the following occurs:

(1) The state board of finance revokes the status of the financial institution as a depository.

(2) The financial institution notifies the state board of finance or the local board of finance for the political subdivision that the financial institution is resigning as a depository for the political subdivision.

(3) Another law terminates the depository status of the financial institution.

A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(c) Subject to IC 5-13-8-9, a financial institution that is a depository for the state on March 21, 1996, and any successor financial institution is eligible after March 21, 1996, to become a depository for any political subdivision for which the financial institution is not already a depository without reapplying under IC 5-13-10.5 or IC 5-13-8-1. A financial institution that qualifies under this subsection as a depository for a political subdivision after March 21, 1996, shall be treated after March 21, 1996, as if the financial institution were designated as a depository under IC 5-13-8.

(d) The treasurer of state shall add any financial institution that qualifies as a depository for political subdivisions under subsection (b) or (c) to the list of depositories eligible to receive the public funds of political subdivisions under IC 5-13-8-1.

SECTION 15. IC 5-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) As used in this section, "Indiana resident" means any of the following:

(1) An individual who is a resident of Indiana.

(2) A political subdivision (as defined in IC 36-1-2-13) in Indiana.

(3) A corporation, a limited liability company, a partnership, a limited partnership, a trust, an estate, or other legal entity that:

(A) is established under Indiana law; or

(B) maintains its principal office in Indiana.

(4) A corporation, a limited liability company, a partnership, a limited partnership, a trust, an estate, or other legal entity that:

(A) is established under the law of a state other than Indiana;

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and

(B) carries out substantial business activities in Indiana, including the employment of individuals who reside in Indiana.

(b) As used in this section, "investment in an Indiana resident" means an investment in an interest-bearing obligation of a political subdivision (as defined in IC 36-1-2-13) in Indiana.

(c) The local board of finance under which any depository operates may at any time revoke the commission of any depository at a meeting called for the purpose of revoking a commission, of which the depository shall have been notified by advance written notice sent by first class or registered mail not less than twenty (20) days before the meeting and at which the depository has the right to be heard. Not later than thirty (30) days after a local board of finance revokes the commission of a depository, the local board of finance shall give written notice of the action to the ~~board of depositories.~~ **public deposit insurance corporation.**

(d) The local board of finance may revoke the commission of any depository to do business with the political subdivision:

(1) if the depository is unwilling or unable to perform banking services reasonably required by the local board of finance, considering the volume of transactions, that are:

(A) related to the public funds deposited in a deposit account described in IC 5-13-9-4(a); and

(B) required by the political subdivision served by the local board of finance to carry out the responsibilities of the political subdivision, as determined by the local board of finance;

(2) if the depository is unwilling or unable to comply with a state or federal statute, rule, or other regulation that governs the records or handling of public funds of the political subdivision served by the local board of finance, as determined by the local board of finance;

(3) if the depository ceases to qualify as a depository under this chapter, as determined by the local board of finance;

(4) if the depository fails to conduct lending activities in Indiana to such an extent that, at the end of each quarter, pursuant to the depository's certification, the sum of:

(A) the total principal amount of outstanding loans to Indiana residents; plus

(B) the total value of investments in Indiana residents;

will at least equal the total amount of the public funds of the state and political subdivisions of the state that are on deposit in the

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financial institution; or

(5) for any cause that is adopted in the written rules of the local board of finance and that is directly related to the safe handling of public funds.

(e) Upon revocation, the depository shall immediately render an accounting and make settlement for all public funds deposited with the depository.

SECTION 16. IC 5-13-9-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8.5. Funds deposited in deposit accounts in accordance with this chapter and interest earned or accrued on the funds are public funds and are covered by the **corporation** insurance fund.

SECTION 17. IC 5-13-9.5-1, AS AMENDED BY P.L.202-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

(c) A financial institution is ineligible to become a depository and receive public funds of the state if either of the following applies:

(1) The institution fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution. However, the requirement set forth in this subdivision does not apply if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the ~~board for depositories,~~ **public deposit insurance corporation,** or to the ~~board's~~ **public deposit insurance corporation's** agent, in accordance with IC 5-13-13 and with any applicable rules of the ~~board.~~ **public deposit**

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insurance corporation.

(2) The institution has been found by the department of financial institutions under IC 28-1-2-40, or the financial institution's primary federal regulator, to not be in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 as it applies to Indiana borrowers.

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. If necessary, a determination of the ratio described in subdivision (1) must be based on the institution's most recent periodic statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

(d) A financial institution shall furnish to the ~~board~~ **public deposit insurance corporation** a certificate executed by an officer of the institution signifying that the institution satisfies:

(1) the requirements of subsection (c); and

(2) the requirement in section 6(b) of this chapter that the sum of:

(A) the total principal amount of the depository's outstanding loans to Indiana residents; plus

(B) the total value of the depository's investments in Indiana residents;

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

The ~~board~~ **public deposit insurance corporation** may rely on a certificate furnished under this subsection in determining whether to deposit public funds or reinvest public funds in the institution.

SECTION 18. IC 5-13-9.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. When the state board of finance has designated a depository for public funds, the treasurer of state shall accept the application of the financial institution to act as a depository for public funds. A designation under this section expires only under the following conditions:

(1) The ~~board of depositories~~ **public deposit insurance corporation** revokes the status of the financial institution as a depository under section 6 of this chapter.

(2) The financial institution resigns as a depository under section 7 of this chapter.

(3) Another law terminates the depository status of the financial

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institution.

SECTION 19. IC 5-13-9.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) The ~~board for depositories~~ **public deposit insurance corporation** regarding depositories of public funds of the state may revoke the commission of any depository at any time for any cause considered sufficient by the ~~board for depositories.~~ **public deposit insurance corporation.**

(b) The causes for which the ~~board for depositories~~ **public deposit insurance corporation** may revoke the commission of a depository under subsection (a) include the failure of the depository to conduct lending activities in Indiana to such an extent that, at the end of each quarter, pursuant to the depository's certification, the sum of:

(1) the total principal amount of the depository's outstanding loans to Indiana residents (as defined in IC 5-13-8-7); plus

(2) the total value of the depository's investments in Indiana residents (as defined in IC 5-13-8-7);

is at least equal to the total amount of public funds of the state and political subdivisions of the state that are on deposit in the depository.

(c) Upon revocation, the depository shall immediately render an accounting and make settlement for all public funds deposited with the depository.

SECTION 20. IC 5-13-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. The treasurer of state may not deposit aggregate funds in deposit accounts in any one (1) designated depository in an amount aggregating at any one (1) time more than fifty percent (50%) of the combined capital, surplus, and undivided profits of that depository as determined by its last published statement of condition filed with the treasurer of state. Each depository shall file with the treasurer of state each periodic statement of condition required to be filed by it with its governmental supervisory body. If the ~~state board for depositories~~ **public deposit insurance corporation** finds that excess cash of the state is substantially more than that which had been anticipated, it may increase that maximum percentage in any depository, and the treasurer of the state may invest the additional funds in deposit accounts distributed among the depositories substantially in proportion to their respective capital, surplus, and undivided profits.

SECTION 21. IC 5-13-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) A public officer of the state may invest or reinvest funds held by the officer and available for investment in deposit accounts issued or offered by a designated depository. Investments under this ~~subdivision~~ **subsection**

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by the treasurer of state are governed by IC 5-13-10.

(b) Investments in deposit accounts under subsection (a) must be in the amounts, and for the rates and terms, as are agreed upon from time to time by the officer making the investment and the designated depository.

(c) Investments made in accordance with subsection (a) and the interest earned or accrued on them are public funds and are covered by the **corporation** insurance fund.

SECTION 22. IC 5-13-10.5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. Any public depository insurance assessment paid by a depository on any deposit account of the state under IC 5-13-12-5 **(before its expiration)** shall be deducted from the interest otherwise payable on that account.

SECTION 23. IC 5-13-12-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.1. (a) Except for section 0.2 of this chapter, this chapter may not be administered after December 31, 2013, unless the governor issues an executive order under subsection (b).**

(b) If the secretary of state determines that a domestic nonprofit corporation will not merge with the board for depositories under IC 5-13-12.5 on or before December 31, 2013, the secretary of state shall file an affidavit with the governor that states that the secretary of state finds that the board for depositories should continue administering this chapter. If the secretary of state files an affidavit with the governor under this subsection, the governor shall, not later than ten (10) days after receiving the affidavit under this subsection, issue an executive order that specifies that the board for depositories may continue to administer this chapter until the earlier of:

(1) the date that a domestic nonprofit corporation merges with the board for depositories under IC 5-13-12.5; or

(2) July 1, 2014.

(c) If the governor issues an executive order under subsection (b), references in the Indiana Code, Indiana Administrative Code, and the Indiana Register to the:

(1) corporation insurance fund shall be treated as references to the public deposit insurance fund; and

(2) public deposit insurance corporation shall be treated as references to the board for depositories.

(d) Except for section 0.2 of this chapter, this chapter expires January 1, 2014.

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SECTION 24. IC 5-13-12-0.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.2. (a) Members of the board for depositories and any officers or employees of the board for depositories are not subject to personal liability or accountability by reason of any investment in any of the obligations listed in IC 5-13-12-7(d) (before its expiration).**

(b) This section expires January 1, 2020.

SECTION 25. IC 5-13-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.5. Merger of Board for Depositories with Domestic Nonprofit Corporation; Conversion into Nonprofit Corporation

Sec. 1. This chapter applies to:

(1) the public deposit insurance fund; and

(2) the following entities:

(A) The board for depositories.

(B) The domestic nonprofit corporation that merges with the board for depositories under this chapter.

(C) The public deposit insurance corporation that is the surviving nonprofit corporation after a merger under this chapter.

Sec. 2. The board for depositories shall:

(1) merge with a domestic nonprofit corporation if the members and board of directors of the domestic nonprofit corporation approve the merger as provided under section 3 of this chapter; and

(2) gain the rights, powers, privileges, immunities, and franchises available under IC 23-17.

Sec. 3. (a) The board for depositories may engage in a merger with a domestic nonprofit corporation described in section 12 of this chapter in a transaction in which the surviving entity is the domestic nonprofit corporation if all the following occur:

(1) The board of directors of the domestic nonprofit corporation proposes a merger by approving, by an affirmative vote of a majority of the board of directors of the domestic nonprofit corporation participating in a meeting at which a quorum is present, a resolution of merger and conversion.

(2) The board of directors of the domestic nonprofit corporation submits the resolution described in subdivision (1) to the voting members of the corporation for approval.

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(3) The resolution is approved by the voting members of the corporation by an affirmative vote of at least a majority of the voting members of the corporation:

(A) in a meeting at which a quorum is present; or

(B) by written consent or written ballot as provided under IC 23-17-19-3(e).

(b) The resolution of merger and conversion described under subsection (a) must include the details or a description of the plan of merger between the board for depositories and the domestic nonprofit corporation, including the following:

(1) The name of:

(A) each entity that is a party to the merger under this chapter; and

(B) the domestic nonprofit corporation that is the surviving entity in the transaction.

(2) The terms and conditions of the planned merger and conversion.

(c) A plan of merger may include the following:

(1) Amendments to, or a restatement of, the articles of incorporation or bylaws of the surviving nonprofit corporation.

(2) Other provisions relating to the planned merger and conversion.

(3) A delayed effective date.

(d) The domestic nonprofit corporation shall give notice of the meeting of members described in subsection (a)(3)(A) in accordance with IC 23-17-10-5. The notice must:

(1) state that the purpose of the meeting is to consider the plan of merger; and

(2) contain or be accompanied by a copy or summary of the plan of merger.

(e) If the board of directors of the domestic nonprofit corporation seeks to have a resolution for merger and conversion approved by the voting members by written consent or written ballot under subsection (a)(3)(B), the domestic nonprofit corporation shall include a copy or summary of the plan of merger with the material soliciting the approval of the resolution of merger and conversion.

(f) Upon the approval of a resolution of merger and conversion by the board of directors and members of the domestic nonprofit corporation as described in subsection (a), both of the following apply:

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(1) The board for depositories is considered to have become a party to the plan of merger described in this section.

(2) The board for depositories is considered to have approved the resolution of merger and conversion described in subsection (a).

Sec. 4. After a plan of merger is approved as provided under section 3 of this chapter, the surviving nonprofit corporation shall deliver to the secretary of state articles of merger that include the following:

(1) The plan of merger.

(2) The total number of votes for and votes against the plan of merger cast by the members of the board of directors of the domestic nonprofit corporation that will be the surviving nonprofit corporation in the merger.

(3) The total number of votes for and votes against the plan of merger cast by the members of the domestic nonprofit corporation that will be the surviving nonprofit corporation in the merger.

Sec. 5. (a) When a merger and conversion under this chapter take effect, the following occur:

(1) The board for depositories merges into the surviving nonprofit corporation and the separate existence of the board for depositories ceases.

(2) The surviving nonprofit corporation has all the rights, privileges, immunities, and powers and is subject to all the duties, restrictions, penalties, and liabilities of a nonprofit corporation organized under IC 23-17 and shall function as the public deposit insurance corporation.

(3) The surviving nonprofit corporation shall operate for the benefit of depositors of public funds deposited in financial institutions approved by the surviving nonprofit corporation. No entity other than the surviving nonprofit corporation may be empowered to manage and operate the public deposit insurance fund.

(4) The surviving nonprofit corporation:

(A) does not have the statutory rights, privileges, immunities, and powers; and

(B) is not subject to the statutory duties, restrictions, penalties, and liabilities;

of the board for depositories, including those provided under IC 5-13, except as expressly provided for by reference to the public deposit insurance corporation.

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(5) The title to real property and other property, including records and digital information, owned by each party to the merger is vested in the surviving nonprofit corporation without reversion or impairment, subject to any conditions to which the property was subject before the merger. In addition, the state shall transfer to the surviving nonprofit corporation all records and digital information relating to the board for depositories or the public deposit insurance fund that is in the state's possession.

(6) Subject to subdivision (4), the surviving nonprofit corporation has all the liabilities and obligations of each party to the merger.

(7) A proceeding pending against a party to the merger may be continued as if the merger and conversion had not occurred, or the surviving nonprofit corporation may be substituted in the proceeding for the board for depositories.

(8) The articles of incorporation and bylaws of the surviving nonprofit corporation are amended or restated to the extent provided in the plan of merger.

(b) After a merger and conversion take effect under this chapter, any terms of the plan of merger that are not included in the articles of incorporation are considered to be contract rights only and are not part of the governing documents of the nonprofit corporation.

Sec. 6. (a) Except as provided in subsection (b) or when the requirements of IC 23-17-19 relating to mergers are inconsistent with this chapter, a nonprofit corporation organized under IC 23-17 that is a party to a merger with the board for depositories under this chapter shall comply with the applicable requirements of IC 23-17-19 relating to mergers.

(b) IC 23-17-19-2 does not apply to a merger and conversion under this chapter.

Sec. 7. (a) The secretary of state shall approve or disapprove articles of merger filed under this chapter after first making the examinations or investigations the secretary of state considers necessary to determine whether the proposed merger and conversion is lawful.

(b) If the secretary of state approves the articles of merger:

(1) the approval is conclusive proof that the parties to the merger satisfied all conditions precedent to the merger; and

(2) the effective date of the merger and conversion is the date of the filing of the articles of merger unless a delayed effective

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date is specified in the articles of merger.

Sec. 8. (a) Every depository that has public funds shall:

(1) pay into the corporation insurance fund the assessments provided in this article; and

(2) comply with all lawful requirements of the public deposit insurance corporation.

The corporation insurance fund shall be maintained by the assessments payable by the depositories, by the collection of all claims created under IC 5-13-13, and by the receipt of all interest and other earnings of the corporation insurance fund from any source.

(b) All property in the corporation insurance fund, the interest or income derived from it or through its use, and all property otherwise held by the public deposit insurance corporation under this title is exempt from all taxes imposed by the state or any political subdivision.

Sec. 9. The corporation insurance fund shall continue to hold until maturity the bonds issued by the Indiana housing finance authority in which the board for depositories invested in 2004.

Sec. 10. Members of the board of directors of the public deposit insurance corporation and any officers, members, or employees of the public deposit insurance corporation are not subject to personal liability or accountability by reason of any investment:

(1) in any of the obligations listed in IC 5-13-12-7(d) (before its expiration); or

(2) made in compliance with the investment policy adopted by the investment committee of the public deposit insurance corporation.

Sec. 11. The public deposit insurance corporation shall continue to hold until paid in accordance with its terms the instrument of indebtedness evidencing the obligation to repay the loan from the public deposit insurance fund to the state general fund under P.L.224-2003, SECTION 116.

Sec. 12. (a) The domestic nonprofit corporation with which the board for depositories may engage in a merger under this chapter is a corporation with, at the time of the merger, a board of directors described in subsection (b).

(b) The board of directors of the corporation is comprised of eight (8) members, as follows:

(1) The treasurer of state.

(2) The director of the department of financial institutions.

(3) A treasurer of an Indiana county.

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(4) A city or town official responsible for investment of tax proceeds.

(5) An individual identified in a record received by the corporation as the appointee of the Indiana Association of School Business Officials.

(6) A chief executive officer or a chief financial officer of a financial institution operating in Indiana with not more than two hundred million dollars ($200,000,000) of Indiana based deposits.

(7) A chief executive officer or a chief financial officer of a financial institution operating in Indiana with more than two hundred million dollars ($200,000,000) but not more than one billion dollars ($1,000,000,000) of Indiana based deposits.

(8) A chief executive officer or a chief financial officer of a financial institution operating in Indiana with more than one billion dollars ($1,000,000,000) of Indiana based deposits.

(c) The:

(1) manner of selection, removal, replacement in the event of vacancy, term of office, and additional qualifications of members of the board of directors of the corporation described in subsection (b); and

(2) provisions regarding the functioning of the board of directors of the corporation;

shall be established from time to time in the bylaws of the corporation.

Sec. 13. If the United States government or an agency of the United States government extends insurance coverage of public deposits to one hundred percent (100%) of the amount on deposit irrespective of the amount of the deposit, in a law or regulation not having an expiration date, the public deposit insurance corporation, as directed and determined by its board of directors, shall transfer the corporation insurance fund to:

(1) such an organization, if the organization is organized and operated exclusively for charitable purposes and at the time of the transfer qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code; or

(2) the state of Indiana.

Sec. 14. All interest or income derived from property in the corporation insurance fund or through its use and not used to pay expenses incident to the administration of the corporation insurance fund shall be added to the corpus of the corporation insurance fund.

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Sec. 15. The public deposit insurance corporation shall submit to the board of finance at least annually a report of the financial condition of the public deposit insurance corporation and the corporation insurance fund.

SECTION 26. IC 5-13-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Whenever any depository becomes a closed depository, the ~~board~~ **public deposit insurance corporation** shall, as soon as possible and upon the conditions prescribed in this section, make payment from the **corporation** insurance fund to the proper public officers of all public funds that were deposited in the closed depository in the manner required by this article. These payments shall be made only to the extent the public funds are not covered by insurance of any federal deposit insurance agency.

(b) For the purpose of determining the sums to be paid on account of public funds in any closed depository, the department of financial institutions shall ascertain the amount of public funds on deposit in any closed depository as disclosed by the records, and certify the amounts to the attorney general, auditor of state, the several public officers who have public funds on deposit, and the ~~board for depositories,~~ **public deposit insurance corporation,** which then constitutes a claim on the **corporation insurance** fund. The certification shall be made within twenty (20) days after its special representative has taken charge of the business and property of any closed depository, or the receiver of any national banking association or state chartered state banks within twenty (20) days after appointment.

(c) Within ten (10) days after the receipt of a certification under subsection (b), the several public officers who have public funds on deposit in the closed depository shall furnish to the attorney general and the auditor of state:

(1) verified statements of the amount of the public funds on deposit in the closed depository, as disclosed by their records;

(2) certified copies of the resolution or resolutions under which the deposits were made; and

(3) any other information requested by the attorney general and the auditor of state.

SECTION 27. IC 5-13-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) Whenever the decision of the attorney general and auditor of state has become final, or whenever a court of competent jurisdiction as provided in section 2 of this chapter has determined the amount payable from the **corporation** insurance fund on account of public funds deposited in

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the closed depository, the ~~board for depositories~~ **public deposit insurance corporation** shall ~~subject to IC 5-13-12-8(c),~~ cause the amount to be paid to the treasurer or public officer out of the **corporation** insurance fund.

(b) After payment is made under subsection (a), the ~~board,~~ **public deposit insurance corporation,** on behalf of the ~~public deposit~~ **corporation** insurance fund, is then subrogated to all of the right, title, and interest of the depositor of the public funds for the amount of the depository's claim against any federal deposit insurance agency and against the closed depository. The ~~board~~ **public deposit insurance corporation** is so subrogated to the extent that the **corporation** insurance fund has paid the loss not reimbursed by the insurance. The ~~board~~ **public deposit insurance corporation** is entitled to share in the distribution of the assets of the closed depository on the basis ratably with other depositories, but the **corporation** insurance fund shall be paid in full before any distribution is made on account of public funds not insured under the terms of this chapter. The ~~board~~ **public deposit insurance corporation** shall pay any sum or sums received from any distribution into the **corporation** insurance fund.

SECTION 28. IC 5-13-13-4, AS AMENDED BY P.L.115-2010, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. (a) Whenever the assets in the **corporation** insurance fund are not sufficient to pay the claims of any kind that have been finally determined and have become payable, the ~~board for depositories~~ **public deposit insurance corporation** shall issue anticipatory warrants for the purpose of raising money for the immediate payment of the claims. The warrants outstanding and unpaid must not at any time exceed the sum of three hundred million dollars ($300,000,000). Interest may be paid upon the warrants from the date the rate was established by the ~~board for depositories.~~ **public deposit insurance corporation.** Interest is payable at the end of each year or for a shorter period as the warrants remain unpaid.

(b) The warrants are the obligation of the ~~board for depositories~~ **public deposit insurance corporation** payable out of the ~~public deposit~~ **corporation** insurance fund only and do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. Each warrant must have printed on its face the words, "This warrant is an obligation of the ~~board for depositories~~ **public deposit insurance corporation** payable solely out of the ~~public deposits~~ **corporation** insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal, the interest, or any other amount owed on the warrants.".

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(c) Subject to the limitations in subsections (a) through (b), the warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the ~~board for depositories.~~ **public deposit insurance corporation.**

SECTION 29. IC 5-13-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** on behalf of the ~~board for depositories~~ **public deposit insurance corporation** has the powers and duties set out in this section and section 6 of this chapter and shall sell all anticipatory warrants issued under this chapter at a price not less than par plus accrued interest. The proceeds of the sale of the warrants shall be paid into the **corporation** insurance fund and shall be applied exclusively to the payment of the claims on account of which the warrants were issued.

(b) Any person may file an application with the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** for an allotment of a definite amount of the warrants. The ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** shall then apportion to the several applicants an amount of warrants as the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** sees fit, but no allotments shall be made in an amount less than two thousand dollars ($2,000).

(c) The ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** shall make and retain in the ~~secretary-investment manager's~~ **designee of the public deposit insurance corporation's** office a complete record of all warrants sold to each purchaser and of the post office address of the purchaser. Purchasers of warrants may notify the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** of their post office addresses, or of any change in their addresses, and of the warrants owned or held by them, and the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** shall change the ~~secretary-investment manager's~~ **designee of the public deposit insurance corporation's** sale record accordingly.

SECTION 30. IC 5-13-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) All anticipatory warrants and all interest or the warrants shall be payable by the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** solely from the money paid into the **corporation** insurance fund and the money is, except for the payment

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of expenses incident to the operation of the **corporation** insurance fund, exclusively and irrevocably pledged to the payment of all warrants in the consecutive order in which they were issued. The warrants, as to interest as well as principal, shall be paid out of the money in the **corporation** insurance fund before the payment of any claims that may arise and be finally determined subsequent to the issue and sale of any warrants or series of warrants.

(b) When any warrant or series of warrants is outstanding and unpaid, the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** shall, when the ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** has money in the **corporation** insurance fund sufficient to pay a reasonable amount of the outstanding and unpaid warrants, notify the persons who, according to the ~~secretary-investment manager's~~ **designee of the public deposit insurance corporation's** record, hold the warrants or warrants then payable. The ~~secretary-investment manager~~ **designee of the public deposit insurance corporation** shall mail each notice to the post office address of the person as shown by the records of sale. The notice must state that the warrant or warrants will be paid on presentation, and that interest will cease after the expiration of ten (10) days from the mailing of the notice. At the expiration of the ten (10) day period, interest ceases on the warrant or warrants.

SECTION 31. IC 5-13-13-7, AS AMENDED BY P.L.115-2010, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) At any time when the ~~board for depositories~~ **public deposit insurance corporation** determines that the assets of the **corporation** insurance fund are insufficient to pay its liabilities, accrued or contingent, or determines that the assessments due or to become due will not be sufficient to maintain the **corporation** insurance fund in a solvent condition and insure the safekeeping and prompt payment of public funds, the ~~board~~ **public deposit insurance corporation** may enter an order requiring any or all then constituted depositories to substitute other security, in the amount and type as determined by the ~~board~~ **public deposit insurance corporation** from time to time, to secure the safekeeping and prompt payment of public funds. The collateral to be accepted by the ~~board for depositories~~ **public deposit insurance corporation** under this chapter may include, but is not limited to, the following:

(1) United States Treasury securities.

(2) Federal agency securities.

(3) An irrevocable letter of credit issued by a Federal Home Loan Bank if:

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(A) the federal home loan bank issuing the irrevocable letter of credit maintains a rating of at least the third highest level from at least one (1) of the nationally recognized rating agencies; and

(B) the irrevocable letter of credit provides that the ~~board~~ **public deposit insurance corporation** for depositories may draw on the letter when necessary to satisfy losses to the ~~public deposit~~ **corporation** insurance fund under state law.

(b) The ~~board~~ **public deposit insurance corporation** may require any or all then constituted depositories to deliver and pledge to the proper local board of finance or to the state board of finance, under the conditions for joint control of the collateral by the depositories as may be approved by the ~~board for depositories,~~ **public deposit insurance corporation,** bonds or other obligations that the ~~board~~ **public deposit insurance corporation** determines are acceptable collateral. The market value of these securities, at the time of delivery, must be an amount determined by the ~~board,~~ **public deposit insurance corporation,** which may not exceed the amount of public funds then on deposit with the respective depositories. The ~~board~~ **public deposit insurance corporation** may require depositories to pledge acceptable securities to such an extent that the market value of the pledge will at all times be substantially equal to the amount of public funds on deposit in the respective depositories.

(c) Whenever an order is in force and the amount of public funds on deposit is at least ten percent (10%) less than the market value of securities pledged to secure the payment, as required by the board **of the public deposit insurance corporation,** the depository may withdraw the excess amount of pledged collateral.

(d) Any order of the ~~board for depositories~~ **public deposit insurance corporation** becomes effective within the time fixed by the ~~board.~~ **public deposit insurance corporation.** However, the time of effectiveness must not be earlier than thirty (30) days from the date of entry of the order by the ~~board~~ **public deposit insurance corporation.** The order continues in force until rescinded by the ~~board.~~ **public deposit insurance corporation.** Upon the entry of any order by the ~~board for depositories,~~ **public deposit insurance corporation,** all then constituted depositories affected by the order shall comply with the order. Upon compliance, and full payment of all its liabilities by the **corporation** insurance fund, depositories are not required to pay any further assessments for insurance under this chapter until the order requiring collateral has been revoked or rescinded and the collateral returned to the respective depositories.

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(e) A depository may elect at any time to pledge and deliver collateral to the ~~board~~ **public deposit insurance corporation** in an amount equal to one hundred percent (100%) of the public funds the depository has on deposit. A depository that:

(1) elects this option;

(2) has pledged and delivered the collateral to the ~~board;~~ **public deposit insurance corporation;** and

(3) has maintained a one hundred percent (100%) collateral level continuously for the twelve (12) months immediately preceding an assessment;

is exempt from paying any assessment authorized by this article while the collateral continues to be maintained with the ~~board.~~ **public deposit insurance corporation.**

(f) If the fund balance is zero (0), each depository shall pledge and deliver collateral to the ~~board~~ **public deposit insurance corporation** equal to the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total deposit accounts of public funds for the previous four (4) quarters, as reported under this article, as determined by the ~~board~~ **public deposit insurance corporation** from time to time, with at least fifteen (15) days notice to the depository, to secure the safekeeping and prompt payment of public funds.

SECTION 32. IC 5-20-4-7, AS AMENDED BY P.L.3-2008, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) There is established the affordable housing and community development fund. The fund shall be administered by the authority under the direction of the authority's board.

(b) The fund consists of the following resources:

(1) Appropriations from the general assembly.

(2) Gifts, grants, and donations of any tangible or intangible property from public or private sources.

(3) Investment income earned on the fund's assets.

(4) Repayments of loans from the fund.

(5) Funds borrowed from the ~~board for depositories~~ **public deposit** insurance fund (IC 5-13-12-7) **(before its expiration) in 2004.**

(6) Money deposited in the fund under IC 6-7-2-17 and IC 36-2-7-10.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) The money remaining in the fund at the end of a fiscal year does

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not revert to the state general fund.

(e) Interest earned on the fund may be used by the authority to pay expenses incurred in the administration of the fund.

SECTION 33. IC 8-5-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) The board has all powers reasonably necessary to carry out the purpose of this chapter, including the following powers:

(1) To receive federal, state, county, and municipal funds, or private contributions and disburse them for the purpose of aiding commuter transportation systems serving the district.

(2) To monitor and evaluate the use of funds granted or distributed by the district.

(3) To apply for federal, state, municipal, or county funds for the purpose of rendering assistance to commuter transportation systems.

(4) To coordinate its plans and activities with:

(A) any public transportation authority serving one (1) or more counties that are members of the district;

(B) the Indiana department of transportation;

(C) regional planning commissions serving any portion of the district;

(D) units of county and municipal government included in the district; and

(E) any regional transportation authority, transit authority, or like governmental unit in another state if the commuter transportation system crosses the boundary of the state or serves another.

(5) To purchase, lease, or lease with option to purchase capital equipment in aid of any system of commuter transportation operating in the district, and lease the equipment to the system under conditions and for a term to be determined by the board.

(6) As a municipal corporation, to sue and be sued.

(7) To conduct public hearings to accomplish the purpose of this chapter.

(8) To seek and accept the assistance of any public or publicly funded agency in carrying out its functions and duties.

(9) To enter into agreements with either private or public agencies for any purpose required to accomplish the intent of this chapter. ~~The board may enter into a trust indenture or any other agreement with the board for depositories in order to obtain a loan or a loan guarantee under IC 5-13-12-11.~~

(10) To set levels of service and rates notwithstanding IC 8-3-1,

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for transportation of passengers subject to section 7 of this chapter.

(11) To expend funds granted to the district from any source for the purpose of paying reasonable administrative expenses.

(12) To purchase, acquire, lease, or lease with option to purchase all or any part of the assets of a railroad that is providing commuter transportation services within the district and to purchase or acquire all or any part of the issued and outstanding stock of a railroad that is providing commuter transportation services within the district.

(13) To own all or any part of the capital stock or assets of a railroad that is providing commuter transportation services within the district, and to operate either directly, by management contract, or by lease any such railroad.

(14) To issue revenue bonds of the district payable solely from revenues for the purpose of paying all or any part of the cost of acquiring the capital stock of a railroad company, all or any part of the assets of a railroad, or any property, real or personal, for the purposes of this chapter.

(15) To acquire, lease, construct, maintain, repair, police, and operate a railroad and to establish rules for the use of the railroad and other properties subject to the jurisdiction and control of the board.

(16) To acquire and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(17) To lease to others for development or operation all or any part of a railroad on such terms and conditions as the board considers advisable.

(18) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter.

(19) To employ, subject to sections 18 and 19 of this chapter, an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation.

(20) To negotiate and enter into agreements for railroad trackage rights regardless of the location of the track.

(21) To do all other acts necessary or reasonably incident to carrying out the purpose of this chapter.

(b) Notwithstanding the powers granted to the board in subsection

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(a), the district does not have the power to levy taxes.

(c) In the event the board of trustees determines that the commuter transportation system or the railroad owned by the district cannot continue to provide adequate transportation service, or the district is terminated, the board may, subject to the conditions of any state or federal grant used to purchase equipment or property, dispose of any properties of the district.

(d) In the event the district is dissolved, ninety percent (90%) of the proceeds shall be paid to the state and ten percent (10%) to the counties in proportion to their contributions.

(e) In the exercise of any of the powers granted to the board in subsection (a), the board is not subject to any other laws related to commuter transportation systems or railroads.

SECTION 34. IC 28-1-2-40, AS ADDED BY P.L.115-2010, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 40. (a) As used in this section, "act" refers to the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 as it applies to Indiana borrowers.

(b) If the department receives credible evidence from any source that a financial institution that issues to Indiana borrowers an unsecured credit card that is not a debit card, as a card issuer (as defined in 15 U.S.C. 1602(n)) is not in substantial compliance with the act, the director of the department shall send a notice of the evidence by certified mail to the financial institution's chief executive officer. The notice must:

(1) set forth the provisions of IC 5-13-9.5-1(c) and IC 5-13-9.5-1(d);

(2) describe the department's evidence that the financial institution is not in substantial compliance with the act;

(3) describe the consequences under IC 5-13-9.5-1(c) of a finding that the financial institution is not in substantial compliance with the act; and

(4) invite a reply that affirms or disputes the evidence of noncompliance with the act.

If a financial institution disputes the preliminary determination that it is not in substantial compliance with the act, but fails to convince the director of the department of its substantial compliance with the act, the financial institution may, within twenty (20) days of the date of the notice, request a hearing on the determination. If a hearing is requested, the department shall schedule the hearing not earlier than twenty (20) days after the date of the request. If no hearing is requested, the department's determination that the financial institution is not in

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substantial compliance with the act is final.

(c) Except as otherwise provided in this section, any hearing requested by a financial institution under subsection (b) and the determination by the department are subject to IC 4-21.5-3. Judicial review of the department's final determination may be obtained in accordance with IC 4-21.5-5.

(d) If a financial institution does not contest the determination that it is not in substantial compliance with the act, or the financial institution is determined under subsection (b) to not be in substantial compliance with the act, the department shall immediately notify the chairperson of the board ~~for depositories established under IC 5-13-12~~ **of the public deposit insurance corporation (as defined in IC 5-13-4-19.5)** of the determination.

(e) A financial institution that has been determined by the department to not be in substantial compliance with the act may petition the department for a hearing to demonstrate that the financial institution has taken the necessary steps to attain substantial compliance with the act, and to ensure future substantial compliance with the act. The hearing and the determination by the department are subject to IC 4-21.5-3. Judicial review of the department's final determination may be obtained in accordance with IC 4-21.5-5. Upon final determination by the department, or a final judgment in the case of pending judicial review, that the financial institution is in substantial compliance with the act, the department shall immediately notify the ~~chairperson of the board for depositories established under IC 5-13-12~~ **public deposit insurance corporation (as defined in IC 5-13-4-19.5)** of the determination or judgment.

SECTION 35. IC 34-30-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. **(a)** IC 5-13-12-7 **or IC 5-13-12-0.2** (Concerning members, officers, and employees of the board for depositories).

(b) This section expires January 1, 2014.

SECTION 36. IC 34-30-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 13.5. IC 5-13-12.5-10 (Concerning the board of directors, officers, members, and employees of the public deposit insurance corporation).**

SECTION 37. IC 36-8-8.5-17, AS AMENDED BY P.L.1-2009, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 17. (a) The ad valorem property tax levy limits imposed by IC 6-1.1-18.5 do not apply to ad valorem property taxes imposed by a civil taxing unit for a calendar year to pay

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pension benefits under section 12(c) of this chapter to the extent provided in subsection (b).

(b) For purposes of determining the property tax levy limit imposed on a civil taxing unit under IC 6-1.1-18.5, the civil taxing unit's ad valorem property tax levy for a calendar year does not include an amount equal to the amounts paid by the civil taxing unit for pension benefits in that calendar year under section 12(c) of this chapter, minus:

(1) the amount of pension relief distributions under IC 5-10.3-11-4, IC 5-10.3-11-4.5 (repealed effective January 1, 2009), and IC 5-10.3-11-4.7 to be received by the civil taxing unit in that calendar year that is attributable to pension benefits paid under section 12(c) of this chapter for that calendar year; and

(2) an amount equal to the percentage of the civil taxing unit's pension distributions that were relieved under IC 5-13-12-4 **(before its expiration)** in the preceding calendar year, multiplied by the amount of pension benefits paid under section 12(c) of this chapter in that calendar year.

SECTION 38. IC 36-10-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 11. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. ~~He~~ **The treasurer of the board** shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the treasurer of the board** by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by ~~him~~ **the treasurer of the county** to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all money coming into ~~his hands~~ **the treasurer of the board's possession** as required by this chapter and IC 6-7-1-30.1, and in accordance with general statutes relating to the deposit of public funds. Money so deposited may be invested and reinvested by the treasurer **of the board** in accordance with IC 5-13 and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested. ~~All funds invested and fully safeguarded and secured as provided in IC 5-13-9 are exempt from assessments under IC 5-13-12.~~

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(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. ~~He~~ **The controller** shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller, and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of ~~him~~ **the controller, employee, or member** in the amount and with surety and other conditions that may be prescribed and approved by the board. ~~He~~ **The controller** shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board, but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Payroll and similar warrants may be executed with facsimile signatures.

(e) If there are bonds outstanding issued under this chapter, the controller shall deposit with the paying agent or officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates.

(f) At least annually the controller shall submit to the board a report of ~~his~~ **the controller's** accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The handling and expenditure of funds is subject to audit and supervision by the state board of accounts.

SECTION 39. IC 36-10-9-9, AS AMENDED BY P.L.182-2009(ss), SECTION 457, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) The treasurer of the board is the official custodian of all funds and assets of the board and is responsible for their safeguarding and accounting. The treasurer shall give bond for the faithful performance and discharge of all duties

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required of the treasurer by law in the amount and with surety and other conditions that may be prescribed and approved by the board. All funds and assets in the capital improvement fund and the capital improvement bond fund created by this chapter and all other funds, assets, and tax revenues held, collected, or received by the treasurer of the county for the use of the board shall be promptly remitted and paid over by the county treasurer to the treasurer of the board, who shall issue receipts for them.

(b) The treasurer of the board shall deposit all funds coming into the treasurer's hands as required by this chapter and by IC 6-7-1-30.1, and in accordance with IC 5-13. Money so deposited may be invested and reinvested by the treasurer in accordance with general statutes relating to the investment of public funds and in securities that the board specifically directs. All interest and other income earned on investments becomes a part of the particular fund from which the money was invested, except as provided in a resolution, ordinance, or trust agreement providing for the issuance of bonds or notes. ~~All funds invested in deposit accounts as provided in IC 5-13-9 must be insured under IC 5-13-12.~~

(c) The board shall appoint a controller to act as the auditor and assistant treasurer of the board. The controller shall serve as the official custodian of all books of account and other financial records of the board and has the same powers and duties as the treasurer of the board or the lesser powers and duties that the board prescribes. The controller and any other employee or member of the board authorized to receive, collect, or expend money, shall give bond for the faithful performance and discharge of all duties required of the controller in the amount and with surety and other conditions that may be prescribed and approved by the board. The controller shall keep an accurate account of all money due the board and of all money received, invested, and disbursed in accordance with generally recognized governmental accounting principles and procedure. All accounting forms and records shall be prescribed or approved by the state board of accounts.

(d) The controller shall issue all warrants for the payment of money from the funds of the board in accordance with procedures prescribed by the board but a warrant may not be issued for the payment of a claim until an itemized and verified statement of the claim has been filed with the controller, who may require evidence that all amounts claimed are justly due. All warrants shall be countersigned by the treasurer of the board or by the executive manager. Warrants may be executed with facsimile signatures.

(e) If there are bonds or notes outstanding issued under this chapter,

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the controller shall deposit with the paying agent or other paying officer within a reasonable period before the date that any principal or interest becomes due sufficient money for the payment of the principal and interest on the due dates. The controller shall make the deposit:

(1) with money from the sources provided in this chapter; and ~~he shall make the deposit~~

(2) in an amount that, together with other money available for the payment of the principal and interest, is sufficient to make the payment.

In addition, the controller shall make other deposits for the bonds and notes as is required by this chapter or by the resolutions, ordinances, or trust agreements under which the bonds or notes are issued.

(f) The controller shall submit to the board at least annually a report of the board's accounts exhibiting the revenues, receipts, and disbursements and the sources from which the revenues and receipts were derived and the purpose and manner in which they were disbursed. The board may require that the report be prepared by an independent certified public accountant designated by the board. The state board of accounts shall audit annually the accounts, books, and records of the board and prepare a financial report and a compliance audit report. The board shall submit to the city-county legislative body financial and compliance reports of the state board of accounts. The board shall post the reports of the state board of accounts on the board's Internet web site. The city-county legislative body shall discuss the financial and compliance reports of the state board of accounts in a public hearing. The handling and expenditure of funds is subject to supervision by the state board of accounts.

SECTION 40. [EFFECTIVE JULY 1, 2013] **(a) Notwithstanding IC 5-13-12-4, no distribution of interest earnings from the public deposit insurance fund to the pension distribution fund shall be made in December 2013. However, subject to IC 5-13-12-4(g), the secretary-investment manager of the public deposit insurance fund shall provide to the auditor of state a statement of the amount determined under IC 5-13-12-4(c)(1). An amount equal to the amount provided to the auditor of state is appropriated from the state general fund to the treasurer of state for deposit in the pension distribution fund established by IC 5-13-12-4(e) before the end of December 2013.**

(b) There is appropriated to the budget agency fifty million dollars ($50,000,000) from the state general fund for the budget agency to pay back the interest free loan from the public deposit insurance fund that was used to make the transfer to the state

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general fund under P.L.224-2003, SECTION 116. The budget agency shall repay the loan in one (1) installment before July 15, 2013.

(c) This SECTION expires January 1, 2014.

SECTION 41. **An emergency is declared for this act.**

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