

IC 28-1-11

Chapter 11. Powers of Banks and Trust Companies

IC 28-1-11-1

Additional rights, privileges, and powers; "bank or trust company", "bank and trust company", "community based economic development", and "community development corporation" defined

Sec. 1. (a) In addition to the general rights, privileges, and powers conferred by IC 28-1-4 through IC 28-1-9 and subject to the limitations and restrictions contained in this article and in the articles of incorporation, every bank or trust company shall possess and may exercise the rights, privileges, and powers enumerated in this chapter.

(b) Unless the language used specifically indicates otherwise, the terms "bank or trust company" and "bank and trust company" as used in IC 28-1-11 through IC 28-1-20 mean any bank or trust company organized under this article and any bank of discount and deposit, loan and trust and safe deposit company, or trust company organized under any statute enacted prior to February 24, 1933.

(c) As used in this chapter, "community based economic development" refers to activities that seek to address economic causes of poverty within specific geographic areas, revitalizing the economic and social base of low income communities through activities that include:

- (1) affordable housing development;
- (2) small business and micro-enterprise support;
- (3) commercial, industrial, and retail revitalization, retention, and expansion;
- (4) capacity development and technical assistance support for community development corporations;
- (5) employment and training efforts;
- (6) human resource development; and
- (7) social service enterprises.

(d) As used in this chapter, "community development corporation" means a private, nonprofit corporation:

- (1) whose board of directors is comprised primarily of community representatives and business, civic, and community leaders; and
- (2) whose principal purpose includes the provision of:
 - (A) housing;
 - (B) community-based economic development projects; and
 - (C) social services;

that primarily benefit low-income individuals and communities.

(Formerly: Acts 1933, c.40, s.170.) As amended by P.L.263-1985, SEC.58; P.L.3-1990, SEC.101; P.L.14-1992, SEC.80; P.L.42-1993, SEC.26; P.L.136-1994, SEC.1.

IC 28-1-11-2

Fiscal or transfer agent; transportation agent; insurance producer

or broker; attorney in fact

Sec. 2. Any bank or trust company shall have power to act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation; and in such capacity to receive and disburse money; to transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; to authenticate and certify any such bonds and certificates of indebtedness; to act as agent to buy and sell domestic and foreign transportation; to solicit and write insurance as an insurance producer or broker for any insurance company authorized to do business in the state or states where the insurance producer or broker operates; and to act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

(Formerly: Acts 1933, c.40, s.171.) As amended by P.L.188-1997, SEC.3; P.L.63-2001, SEC.6 and P.L.134-2001, SEC.7; P.L.178-2003, SEC.89.

IC 28-1-11-2.5

Sale of life insurance policy or annuity contract

Sec. 2.5. (a) A bank or trust company may act as an insurance producer for the sale of any life insurance policy or annuity contract issued by a life insurance company authorized to do business in any state in which the agent operates.

(b) A bank or trust company that acts as an insurance producer for the sale of a life insurance policy or an annuity contract in Indiana:

- (1) is subject to all requirements of IC 27; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) A bank or trust company may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of services; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

As added by P.L.262-1995, SEC.29. Amended by P.L.188-1997, SEC.4; P.L.130-2002, SEC.5; P.L.192-2003, SEC.2; P.L.178-2003, SEC.90.

IC 28-1-11-2.6

Repealed

(Repealed by P.L.130-2002, SEC.10.)

IC 28-1-11-3

Repealed

(Repealed by Acts 1980, P.L.40, SEC.8.)

IC 28-1-11-3.1

Powers necessary and usual in carrying on banking business; enumerated powers; community development investments; new markets tax credit investments

Sec. 3.1. (a) Any bank or trust company shall have the power to discount, negotiate, sell and guarantee promissory notes, bonds, drafts, acceptances, bills of exchange, and other evidences of debt; to buy and sell, exchange, coin and bullion; to loan money; to borrow money and to issue its notes, bonds, or debentures to evidence any such borrowing and to mortgage, pledge, or hypothecate any of its assets to secure the repayment thereof; to receive savings deposits and deposits of money subject to check, and deposits of securities or other personal property from any person or corporation, upon such terms as may be agreed upon by the parties; to contract for and receive on loans and discounts the highest rate of interest allowed by the laws of this state to be contracted for and received by individuals; to accept, for payment at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, however, the letter of credit must state a specific expiration date; and to exercise all the powers incidental and proper or which may be necessary and usual in carrying on a general banking business, but it shall have no right to issue bills to circulate as money.

(b) Subject to such regulations as the department finds to be necessary and proper, any bank or trust company shall have the following powers:

- (1) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain such insurance.
- (2) To make such loans secured by mortgages on real property or leasehold, as the federal housing administrator insures or makes a commitment to insure, and to obtain such insurance.
- (3) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities issued by national mortgage associations.
- (4) To extend credit to any state agency, with the approval of the department, notwithstanding any other provisions or limitations of IC 28-1. No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or

prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit, or purchases made pursuant to subdivisions (1), (2), and (3) and this subdivision.

(5) To purchase, take, hold, and dispose of notes, and mortgages securing such notes, made to any joint stock land bank heretofore incorporated, in any case in which not less than ninety-nine percent (99%) of the stock of said joint stock land bank is owned by the bank or trust company at the time such notes or mortgages be acquired by the bank or trust company; and upon dissolution of any such joint stock land bank, or at any stage in the process of such dissolution, any bank or trust company then owning not less than ninety-nine percent (99%) of the stock of such joint stock land bank may take, hold, and dispose of any notes, mortgages, or other assets of such joint stock land bank of whatsoever nature, including real estate, wheresoever situated, which such joint stock land bank shall assign, transfer, convey, or otherwise make over to such bank or trust company by way of final or partial distribution of its assets to its stockholders upon such dissolution or in connection with the process of such dissolution. No law of this state prescribing the nature, amount, location, or form of security, or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loan or advances of credit may be made, or prescribing any ratio between the amount of any loan and the appraised value of the security for such loan, or requiring periodical reductions of the principal of any loan, shall be deemed to apply to loans, notes, mortgages, real estate, or other assets mentioned in this subdivision.

(6) To adopt stock purchase programs for employees and to grant options to purchase, and to issue and sell, shares of its capital stock to its employees, or to a trustee on their behalf (which may be the bank or trust company issuing such capital stock), without first offering the same to its shareholders, for such consideration, not less than par value, and upon such terms and conditions as shall be approved by its board of directors and by the holders of a majority of its shares entitled to vote with respect thereto, and by the department. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuances of such options and the sufficiency thereof shall be conclusive. Any bank or trust company exercising the powers granted in this subsection may, to the extent approved by the department, have authorized and unissued stock required to fulfill any stock option or other arrangement authorized herein.

(7) Subject to such restrictions as the department may impose, to become the owner or lessor of personal or real property acquired upon the request and for the use of a customer and to

incur such additional obligations as may be incident to becoming an owner or lessor of such property.

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

(8.1) Subject to the prior written approval of the department, and notwithstanding section 5 of this chapter, to purchase, hold, and convey real estate which is:

(A) improved or to be improved by a single, freestanding building; and

(B) to be used, in part, as a branch or the principal office of that bank or trust company and, in part, as rental property for one (1) or more lessees.

Unless a written extension of time is given by the department, the bank or trust company shall open the branch or principal office within two (2) years from the acquisition date of the real estate. If the bank or trust company does not open a branch or its principal office on the real estate in that time period or if the bank or trust company removes its branch or principal office from the real estate, the bank or trust company shall divest itself of all interest in the real estate within five (5) years from the acquisition date of the real estate, if a branch was not opened, or five (5) years from the removal date of the branch office, whichever applies. Except with the written approval of the department, the sum invested in real estate and buildings used for the convenient transaction of its business as provided in this subdivision shall not exceed fifty percent (50%) of the capital and surplus of the bank or trust company as provided in section 5 of this chapter.

(9) Except as provided in subsections (c) and (d), and subject to subsection (e), to invest directly or indirectly in community development corporations and projects of a predominantly civic, community, or public nature, including equity investments in corporations, limited partnerships, limited liability companies, or other entities organized for such purposes. Investments by a bank or trust company under this subdivision may not exceed:

(A) in any one (1) project, two percent (2%); and

(B) in the aggregate, five percent (5%);

of the capital and surplus of the bank or trust company. As used in this subdivision and in subsection (c), "capital and surplus" has the meaning set forth in IC 28-1-1-3(10).

(10) Subject to section 3.2 of this chapter, to exercise the rights and privileges (as defined in section 3.2(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(c) Investments by a bank or trust company under subsection (b)(9) may exceed the limit set forth in subsection (b)(9)(B) if the

director determines that:

- (1) the aggregate investments by the bank or trust company under subsection (b)(9) in excess of five percent (5%) of the capital and surplus of the bank or trust company will not pose a significant risk to the affected deposit insurance fund; and
- (2) the bank or trust company is adequately capitalized.

However, in no case shall the aggregate investments by a bank or trust company under subsection (b)(9) exceed ten percent (10%) of the capital and surplus of the bank or trust company.

(d) Investments by a bank or trust company under subsection (b)(9) in equity investments qualifying for the new markets tax credits under 26 U.S.C. 45D or other programs approved by the director:

- (1) are not subject to the limit set forth in subsection (b)(9)(A); and
- (2) may exceed the limit set forth in subsection (b)(9)(B) if the director determines that:

(A) the aggregate equity investments qualifying for the new markets tax credit or other programs that are:

- (i) made by the bank or trust company under subsection (b)(9); and
- (ii) in excess of five percent (5%) of the capital and surplus of the bank or trust company;

will not pose a significant risk to the affected deposit insurance fund; and

(B) the bank or trust company is adequately capitalized.

However, in no case shall the aggregate equity investments qualifying for the new markets tax credit or other programs and made by a bank or trust company exceed fifteen percent (15%) of the capital and surplus of the bank or trust company.

(e) A bank or trust company shall not make any investment under subsection (b)(9) if the investment would expose the bank or trust company to unlimited liability.

(f) Any rule made and promulgated under and pursuant to this section may apply to one (1) or more banks or trust companies or to one (1) or more localities in the state as the department, in its discretion, may determine.

As added by Acts 1980, P.L.40, SEC.7. Amended by P.L.33-1991, SEC.14; P.L.14-1992, SEC.81; P.L.136-1994, SEC.2; P.L.176-1996, SEC.11; P.L.194-1997, SEC.1; P.L.215-1999, SEC.2; P.L.10-2006, SEC.30 and P.L.57-2006, SEC.30; P.L.213-2007, SEC.38; P.L.217-2007, SEC.36; P.L.35-2010, SEC.116.

IC 28-1-11-3.2

Request to exercise rights and privileges granted to national bank; procedures; appeal

Sec. 3.2. (a) As used in this section, "rights and privileges" means the power:

- (1) to:
 - (A) create;

- (B) deliver;
- (C) acquire; or
- (D) sell;

a product, a service, or an investment that is available to or offered by; or

- (2) to engage in mergers, consolidations, reorganizations, or other activities or to exercise other powers authorized for;

national banks domiciled in Indiana.

(b) A bank that intends to exercise any rights and privileges that are:

- (1) granted to national banks; but
- (2) not authorized for banks under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the bank.

(c) The department shall promptly notify the requesting bank of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department may deny the requested rights and privileges if the department finds that:

- (1) national banks domiciled in Indiana do not possess the requested rights and privileges;
- (2) the exercise of the requested rights and privileges by the bank would adversely affect the safety and soundness of the bank;
- (3) the exercise of the requested rights and privileges by the bank would result in an unacceptable curtailment of consumer protection; or
- (4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the bank.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the bank may exercise the requested rights and privileges only if the bank receives prior written approval from the department. However:

- (1) the department must:
 - (A) approve or deny the requested rights and privileges; or
 - (B) convene a hearing;

not later than sixty (60) days after the department receives the bank's letter; and

- (2) if a hearing is convened, the department must approve or

deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a bank receives approval to exercise the requested rights and privileges granted to national banks domiciled in Indiana, the department shall determine by order whether all banks may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all banks will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a bank under this section to exercise any rights and privileges that are granted to national banks, the bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the bank is located. In an appeal under this section, the court shall determine the matter de novo.

As added by P.L.194-1997, SEC.2. Amended by P.L.73-2004, SEC.34; P.L.213-2007, SEC.39; P.L.217-2007, SEC.37; P.L.35-2010, SEC.117.

IC 28-1-11-4

Investment securities

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

company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed five percent (5%) of its total equity capital.

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

- (1) shares of open-end investment companies the portfolios of which consist solely of securities that are eligible for purchase and sale by national banking associations; and
- (2) collateralized obligations that are eligible for purchase and sale by national banking associations. However, a bank or trust company may purchase for its own account and sell the obligations only to the extent that a national banking association can purchase and sell those obligations.

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

- (1) a federally chartered savings association; or
- (2) a savings association or other entity organized and operated according to federal law or the laws of any state or the District of Columbia;

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

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

- (1) is rated below the first four (4) rating classes by a generally recognized security rating service;
- (2) is in default; or
- (3) is otherwise considered speculative by the director.

(e) A bank or trust company may purchase for its own account a security that is not rated by a generally recognized security rating service if:

- (1) the bank or trust company at the time of purchase obtains financial information that is adequate to document the investment quality of the security; and
- (2) the security is not otherwise considered speculative by the director.

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

(g) Notwithstanding any other provision of this article, a bank or trust company may purchase for its own account shares of stock of

a banker's bank insured by the Federal Deposit Insurance Corporation or a holding company that owns or controls a banker's bank insured by the Federal Deposit Insurance Corporation. For the purposes of this subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

- (1) the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2), or by a bank holding company the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2); and
- (2) that is engaged exclusively in providing services to other banks (as defined in IC 28-2-14-2), and to their officers, directors, and employees.

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

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

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

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

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

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

(j) As used in this section, "total equity capital" means unimpaired capital stock, unimpaired surplus, unimpaired undivided profits, subordinated debt that has been approved by the state or federal regulatory agencies, and one hundred percent (100%) of loan reserves.

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

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

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

(Formerly: Acts 1933, c.40, s.173; Acts 1935, c.5, s.26; Acts 1937, c.33, s.18; Acts 1959, c.125, s.1; Acts 1965, c.356, s.10; Acts 1967, c.260, s.11; Acts 1971, P.L.394, SEC.28.) As amended by P.L.141-1984, SEC.7; P.L.265-1985, SEC.2; P.L.169-1986, SEC.1; P.L.36-1987, SEC.8; P.L.165-1988, SEC.1; P.L.164-1988, SEC.3; P.L.8-1991, SEC.11; P.L.42-1993, SEC.27; P.L.176-1996, SEC.12; P.L.192-1997, SEC.4; P.L.79-1998, SEC.44; P.L.192-2003, SEC.3; P.L.89-2011, SEC.34.

IC 28-1-11-5

Real estate

Sec. 5. (a) Any bank or trust company shall have power to purchase, hold, and convey real estate for the following purposes, and for no others:

- (1) Such as shall be necessary for the convenient transaction of its business.
- (2) Such as shall be mortgaged to it or to its assignor immediate or remote, in good faith by way of security for debts.
- (3) Such as shall be conveyed to it in satisfaction of debts contracted in the course of its dealings, or in satisfaction of debts, notes, or mortgages purchased by or assigned to it, or in exchange for real estate so conveyed to it.
- (4) Such as it shall purchase at sales under judgments, decrees, or mortgages held by the bank or trust company or shall purchase to secure debts due it.

(b) Except with the approval in writing of the department, after July 1, 1933, the sum invested in real estate and buildings used for the convenient transaction of its business shall not exceed fifty percent (50%) of the capital and surplus of such bank or trust company. Such investment may be made in the stock of a corporation organized to own and hold the real estate and building occupied and used wholly or in part by such bank or trust company.

(c) No bank or trust company shall hold the title or possession of any real estate purchased or otherwise acquired to secure any debts due to it for a longer period than ten (10) years after such real estate is or has been purchased or otherwise acquired, or after July 1, 1933, without the consent in writing of the department.

(d) For the purposes of subsection (a)(1), real estate purchased or held for the convenient transaction of the business of a bank or trust company includes the following:

- (1) Real estate on which the principal office or a branch office

of the bank or trust company is located.

(2) Real estate that is the location of facilities supporting the operations of the bank or trust company, such as parking facilities, data processing centers, loan production offices, automated teller machines, night depositories, facilities necessary for the operations of a bank or trust company subsidiary, or other facilities that are approved by the director.

(3) Real estate that the board of directors of the bank or trust company expects, in good faith, to use as a bank or trust company office or facility in the future.

(e) If real estate referred to in subsection (d)(3) is held by a bank or trust company for one (1) year without being used as a bank or trust company office or facility, the board of directors of the bank or trust company shall state, by resolution, definite plans for the use of the real estate. A resolution adopted under this subsection shall be made available for inspection by the department.

(f) Real estate referred to in subsection (d)(3) may not be held by a bank or trust company for more than three (3) years without being used as a bank or trust company office or facility unless:

(1) the board of directors of the bank or trust company, by resolution:

(A) reaffirms annually that the bank or trust company expects to use the real estate as a bank or trust company office or facility in the future; and

(B) explains the reason why the real estate has not yet been used as a bank or trust company office or facility; and

(2) the director determines that:

(A) the continued holding of the real estate by the bank or trust company does not endanger the safety and soundness of the bank or trust company; and

(B) the bank or trust company is holding the real estate to use the real estate in the future for one (1) of the purposes set forth in subsection (d)(1) and (d)(2).

(g) Real estate referred to in subsection (d)(3) may not be held by a bank or trust company for more than ten (10) years without being used as a bank or trust company office or facility unless the department consents in writing to the continued holding of the real estate by the bank or trust company.

(Formerly: Acts 1933, c.40, s.174; Acts 1935, c.5, s.27; Acts 1943, c.86, s.1; Acts 1959, c.39, s.1; Acts 1965, c.356, s.11; Acts 1967, c.260, s.12.) As amended by P.L.263-1985, SEC.59; P.L.14-1992, SEC.82; P.L.213-2007, SEC.40; P.L.217-2007, SEC.38.

IC 28-1-11-6

Appointment as fiduciary

Sec. 6. Any bank or trust company may be appointed and act under the order of appointment of any court of competent jurisdiction as commissioner for the sale of real estate, guardian of the person and estate of persons under the age of eighteen (18) years, and incapacitated persons (as defined in IC 29-3-1-7.5), or as trustee,

receiver, conservator, or committee of the property or estate of a person, corporation, or company, in insolvency or bankruptcy proceedings, or as depository of money paid into court, whether for the benefit of a person, regardless of age, corporation, or party, and in any other fiduciary capacity.

(Formerly: Acts 1933, c.40, s.175; Acts 1973, P.L.280, SEC.3.) As amended by P.L.33-1989, SEC.27.

IC 28-1-11-7

Testamentary and probate fiduciary appointments

Sec. 7. Any bank or trust company shall have power to be appointed and to accept the appointment and act as executor or trustee under the last will and testament, or as administrator, with or without the will annexed, of the estate of any deceased person, and to be appointed and to act under the order of appointment of any court of competent jurisdiction as executor of or trustee under any last will and testament, whenever it shall be the successor to any corporation appointed in such last will and testament, whether such succession is the result of merger, consolidation or otherwise. Whenever a natural person is appointed with such corporation in any appointment as receiver, guardian, commissioner, trustee, executor, administrator with or without the will annexed, his appointment may be under such limitation of powers, and upon such terms and conditions as to the possession and control of the trust assets by such corporation, or otherwise, and as to the bond or security, if any, to be given by him, as the person appointed and such corporation may agree and the court or judge making the appointment shall approve. Whenever any natural person who is appointed in any fiduciary capacity is required to give a bond or security for the faithful performance of his duties, such corporation shall have the power and authority to guarantee or become surety for such natural person if such corporation shall take possession and control of the assets belonging to any such estate or other fiduciary relationship, and if approved by the court having jurisdiction of the fiduciary.

(Formerly: Acts 1933, c.40, s.176.)

IC 28-1-11-8

Appointment as successor guardian, trustee, executor, or administrator

Sec. 8. Any bank or trust company shall have power to be appointed and to act under the order of appointment of any court of competent jurisdiction as guardian, trustee, executor or administrator, with or without the will annexed, on the application or consent of any person acting as such or entitled to such appointment and in the place and stead of such person, but such appointment shall be made upon such notice as is required by law to the persons interested in the estate or fund and on the consent of such of the principal beneficiaries or other persons interested in the estate or fund as the court or judge thereof making the appointment shall deem proper.

(Formerly: Acts 1933, c.40, s.177.)

IC 28-1-11-9

Trust business

Sec. 9. Any bank or trust company shall have power to take, accept and execute any and all legal trusts, duties, and powers in regard to the holding, management, sale and disposition of any property or estate, real or personal, wherever located, and the rents and profits thereof, which may be granted or confided to it by any court of competent jurisdiction, or by any person, corporation, municipality or other authority; to take, accept and execute any and all trusts and powers of whatsoever nature or description which may be conferred upon or entrusted or submitted to it by any person, firm, company, or any body politic, corporation, foreign or domestic, or other authority, by grant, assignment, transfer, devise, bequest or otherwise, or which may be entrusted or committed or transferred to it or vested in it by order of any court of competent jurisdiction; and generally to execute trusts of every description not inconsistent with the laws of this state or of the United States.

(Formerly: Acts 1933, c.40, s.178.)

IC 28-1-11-10

Service as fiduciary without bond; judicial control; requirement of security

Sec. 10. Except as otherwise provided in this chapter, any bank or trust company shall have power to act in each and every fiduciary capacity permitted by the terms of this article, and as commissioner for the sale of real estate, without bond or other security, and administer oaths attested by the signature of its secretary or cashier and its seal wherever it is acting in any such fiduciary capacity and whenever an individual acting in the same capacity is authorized by law to administer oaths. The court having jurisdiction of the fiduciary at any time, whether before or after acceptance of any fiduciary appointment, may require a bond or other security, and upon failure of such corporation to give a bond or security as required, may remove such corporation and revoke its appointment. No bank or trust company shall pledge or deposit any of its assets as a condition to the exercise of any of its powers as a fiduciary.

(Formerly: Acts 1933, c.40, s.179.) As amended by P.L.263-1985, SEC.60.

IC 28-1-11-11

Safe deposits and escrows

Sec. 11. Any bank or trust company shall have power to receive, upon terms and conditions to be prescribed by such corporation, not inconsistent with the provisions of this section, upon deposit for safe-keeping, or in escrow, moneys, bonds, mortgages, jewelry, plate, stock, securities and valuable papers of any kind, and other personal property for hire, and to rent or lease receptacles for safe deposits of personal property. No bank or trust company nor any of the assets

thereof shall be liable, for the value of any property received by it pursuant to the power conferred by this section nor for damages for the loss, theft or misappropriation thereof. Any bank or trust company may procure and carry a policy or policies of insurance for the benefit of the owners of any property received by it pursuant to the power conferred by this section.

(Formerly: Acts 1933, c.40, s.180.)

IC 28-1-11-12

Federal reserve system and federal deposit insurance corporation membership; federal securities

Sec. 12. Every bank or trust company shall have power:

(1) to purchase and hold for the purpose of becoming a member of the federal reserve system:

(A) so much of the capital stock of a federal reserve bank as shall qualify it for membership, pursuant to the Federal Reserve Act (12 U.S.C. 221 et seq.); and

(B) so much of the capital stock of the Federal Deposit Insurance Corporation as will qualify it for membership, pursuant to the Federal Deposit Insurance Act (12 U.S.C. 1811 through 1833e);

(2) to do anything necessary or appropriate to acquire and maintain insurance of its deposits in accordance with the provisions of any federal law in force on or after July 1, 1933;

(3) to become a member of the federal reserve system; and

(4) to have and exercise all powers, not in conflict with the laws of this state, which are conferred upon any such member by the Federal Reserve Act. With the express approval of the department, and except as otherwise provided in this chapter, any bank or trust company shall have the power to purchase and hold shares of the capital stock, bonds, notes, debentures, or any other securities or obligations issued at any time by any agency or instrumentality of the federal government. After July 1, 1933, no bank or trust company shall purchase the capital stock of any joint stock land bank organized pursuant to 12 U.S.C. 2001 through 2279aa-14 and hold the stock so purchased in an amount in excess of ten percent (10%) of the capital and surplus of such bank or trust company.

(Formerly: Acts 1933, c.40, s.181; Acts 1935, c.5, s.28; Acts 1937, c.33, s.19.) As amended by P.L.263-1985, SEC.61; P.L.8-1991, SEC.12; P.L.42-1993, SEC.28; P.L.213-2007, SEC.41; P.L.217-2007, SEC.39.

IC 28-1-11-12.5

Federal home loan bank; investments; membership; loans; transfer, assignment, and pledge of bonds, notes, contracts, mortgages, securities, and other property

Sec. 12.5. Subject to any limitations imposed by the department through policy, a bank or trust company may do any of the following:

(1) Invest the money deposited in the bank or trust company in

the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States.

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

(3) Borrow money from:

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

(B) the Federal Deposit Insurance Corporation; or

(C) any other corporation.

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

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

As added by P.L.258-2003, SEC.5.

IC 28-1-11-13

Compensation for services

Sec. 13. Any bank or trust company shall have power to demand and receive for the faithful performance and discharge of services performed pursuant to the powers vested in it by this article reasonable compensation, or such compensation as shall have been fixed by agreement of the parties, together with any and all advances necessarily paid out and expended in the discharge and performance of its duties, and unless otherwise agreed upon, interest at the legal rate on such advances. No compensation or commission paid or agreed to be paid for the negotiation of any loan or the execution of any trust by any such corporation shall be deemed to be interest within the meaning of any law of this state, nor shall any excess thereof over any rate of interest permitted by the laws of this state be decreed or held to be usury in any court of law or equity. The advances contemplated in this section may include the compensation paid for the employment of legal services when necessary for the protection of any trust or other fiduciary relation.

(Formerly: Acts 1933, c.40, s.182.) As amended by P.L.263-1985, SEC.62.