

## IC 28-15-2

### Chapter 2. Powers of Savings Associations

#### IC 28-15-2-1

##### **Enumerated powers; purchasing and holding life insurance**

Sec. 1. (a) Savings associations may do the following:

- (1) Accept deposit accounts.
- (2) Issue evidence of deposit account ownership.
- (3) Declare and distribute earnings to members.
- (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and 12 CFR 32:
  - (A) Make loans to members on the security of deposit accounts.
  - (B) Make property improvement loans.
  - (C) Make other loans as provided under IC 28-15-8.
  - (D) Make mortgage loans.
  - (E) Accept additional collateral on mortgage loans.
  - (F) Purchase and sell loans.
  - (G) Negotiate loan servicing agreements.
  - (H) Purchase and sell participating interests in loans.
  - (I) Issue letters of credit with specific expiration dates.
  - (J) Make secured or unsecured loans, which are partially insured or guaranteed in any manner by any state of the United States, the United States government, or any of its agencies or government sponsored enterprises.
  - (K) Purchase commercial paper that is denominated in United States currency and that:
    - (i) is rated by at least one (1) nationally recognized investment rating service in one (1) of the two (2) highest grades; or
    - (ii) meets another standard of creditworthiness determined to be appropriate by the director.
  - (L) Make, purchase, or participate in alternative mortgage loans as provided in IC 28-15-11.
- (6) Acquire and sell real estate in satisfaction of debts previously contracted.
- (7) Acquire real estate for the convenient transaction of its business. A savings association has the same powers under this subdivision as a bank or trust company has under IC 28-1-11-5.
- (8) Notwithstanding any other law, establish, maintain, or relocate one (1) or more branch offices by following the provisions of IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association were a bank.
- (9) Become a member in any agency or instrumentality of the federal government. For the purposes of this subdivision, membership in an agency or instrumentality of the federal government may include:
  - (A) purchasing stock;

- (B) purchasing notes and debentures; or
  - (C) borrowing money.
- (10) Subject to any limitations imposed by the department through policy:
- (A) invest the money deposited in the savings association in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States;
  - (B) become a member of the federal home loan bank of the district in which Indiana is located or an adjoining district;
  - (C) borrow money from:
    - (i) a federal home loan bank described in clause (B);
    - (ii) the Federal Deposit Insurance Corporation; or
    - (iii) any other corporation;
  - (D) transfer, assign to, and pledge with a federal home loan bank described in clause (B), the Federal Deposit Insurance Corporation, or any other corporation any of the bonds, notes, contracts, mortgages, securities, or other property of the savings association held or acquired as security for the payment of loans entered into under clause (C); and
  - (E) 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).
- (11) Subject to the provisions and restrictions of 12 U.S.C. 24 and 12 CFR 1, invest in the following types of securities:
- (A) Bonds, notes, certificates, and other valid obligations of the United States government or any agency of the United States government.
  - (B) Accounts offered by federally insured banks, savings banks, and savings associations.
  - (C) Bonds, notes, or other evidences of indebtedness that are general obligations supported by the full faith and credit of any state in the United States or any city, town, or other political subdivision in any state in the United States if the obligations:
    - (i) have been assigned one (1) of the four (4) highest grades by a nationally recognized investment rating service; or
    - (ii) meet another standard of creditworthiness determined to be appropriate by the director.
  - (D) Shares of stock of a subsidiary that does not exercise a power or engage in any activity that is not authorized for the savings association. The investment power granted by this subdivision is separate from the investment power granted by IC 28-15-9.
  - (E) Corporate debt securities that are denominated in United States currency and that:
    - (i) are rated by at least one (1) nationally recognized

investment rating service in one (1) of the four (4) highest grades; or

(ii) meet another standard of creditworthiness determined to be appropriate by the director.

Corporate debt securities in which a savings association invests under this clause must be convertible into stock at the sole option of the holder, and a savings association is prohibited from exercising the conversion option.

(F) Shares of open end investment companies that are eligible for purchase by national banks.

(G) Bankers' acceptances that are eligible for purchase by national banks.

(12) For the purpose of:

(A) check and deposit sorting and posting;

(B) computation and posting of interest and other credits and charges;

(C) preparation and mailing of checks, statements, notices, and similar items; or

(D) other clerical, bookkeeping, accounting, statistical, or similar functions performed by a savings association;

invest in a corporation organized in any state to perform those functions for two (2) or more savings associations, each of which owns a portion of the capital stock of the corporation. The total investment of a savings association under this subdivision may not exceed ten percent (10%) of the capital and surplus of the savings association. A savings association may not invest in this type of corporation unless the corporation furnishes assurances to the department that it will subject itself to examination by the department to the same extent as if the services were performed by the savings association.

(13) Lend money to other savings associations:

(A) the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(B) that are incorporated and operating under the laws of any state or of the United States.

(14) Borrow money and mortgage or pledge its property to secure payment.

(15) Issue subordinated notes or debentures.

(16) Assess and collect interest, fees, and other charges.

(17) Insure its deposit accounts with the Federal Deposit Insurance Corporation or its successor.

(18) Act as an agent for the United States or its instrumentalities.

(19) Accept property for safe keeping or escrow.

(20) Rent or lease safe deposit boxes.

(21) Issue and sell checks, drafts, money orders, and other instruments for the transmission or payment of money.

(22) Exercise all the powers that:

(A) are incidental and proper; or

(B) may be necessary and usual;

in carrying on the business of the savings association.

(23) Purchase or construct buildings, hold legal title to the buildings, and lease the buildings for public purposes to municipal corporations or other public authorities that have resources sufficient to make payment of all rentals as they become due. Each lease agreement entered into under this subdivision must provide that, upon expiration, the lessee will become the owner of the building.

(24) Open or establish automated teller machines at any location. An automated teller machine opened or established under this subdivision may be owned and operated individually or jointly on a cost sharing or fee basis.

(25) Act:

(A) in any fiduciary capacity in which a bank or trust company is permitted to act under this title; and

(B) as an agent for the sale of real estate, without bond or other security.

(26) Accept and maintain demand deposit accounts if the savings association is insured by the Federal Deposit Insurance Corporation or its successor.

(27) Without the approval of the department, to the extent authorized by the board of directors of the savings association, establish or maintain agencies that:

(A) only service and originate, but do not approve, loans and contracts; or

(B) manage or sell real estate owned by the savings association.

An agency established or maintained under this subdivision may offer any services not referred to in this subdivision with the approval of the department, except for accepting payment on savings accounts. An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the savings association.

(b) Subject to any limitations or restrictions that the department may impose by rule or policy, a savings association may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the savings association's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the savings association's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a national bank may purchase or hold under 12 U.S.C. 24 (Seventh).

*As added by P.L.193-1997, SEC.2. Amended by P.L.258-2003, SEC.30; P.L.10-2006, SEC.79 and P.L.57-2006, SEC.79; P.L.89-2011, SEC.73.*

### **IC 28-15-2-1.5**

#### **Profit or commission on sales or purchases; necessity of specific authorization; surcharge**

Sec. 1.5. (a) Except for interest at the legal rate on a loan or advancement, a savings association may not, directly or indirectly, receive a profit or commission from the sale to or purchase from an estate, a guardianship, or a trust of which the savings association is the fiduciary unless the profit or commission is authorized by agreement with the creator of the trust or a court with jurisdiction over the estate, guardianship, or trust.

(b) A savings association that receives a profit or commission in violation of subsection (a) shall be surcharged an amount equal to the profit or commission. In addition, a court with jurisdiction over the estate, guardianship, or trust may remove the savings association as the fiduciary.

*As added by P.L.192-2003, SEC.8.*

### **IC 28-15-2-2**

#### **Request to exercise rights and privileges granted federal savings associations; appeal**

Sec. 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;

federal savings associations domiciled in Indiana.

(b) Subject to this section, savings associations may exercise the rights and privileges that are granted to federal savings associations.

(c) A savings association that intends to exercise any rights and privileges that are:

- (1) granted to federal savings associations; but
- (2) not authorized for savings associations under:
  - (A) the Indiana Code (except for this section); or
  - (B) a rule adopted under IC 4-22-2;

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

(d) The department shall promptly notify the requesting savings association of its receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings association 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.

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

- (1) federal savings associations in Indiana do not possess the requested rights and privileges;
- (2) the exercise of the requested rights and privileges by the savings association would adversely affect the safety and soundness of the savings association;
- (3) the exercise of the requested rights and privileges by the savings association 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 savings association.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings association letter raises issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings association may exercise the requested rights and privileges only if the savings association 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 savings association'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.

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

(h) If a savings association receives approval to exercise the requested rights and privileges granted to national savings associations domiciled in Indiana, the department shall determine by order whether all savings associations 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 savings associations will not:

- (1) adversely affect their safety and soundness; or
- (2) unduly constrain Indiana consumer protection provisions.

(i) If the department denies the request of a savings association under this section to exercise any rights and privileges that are granted to national savings associations, the company may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings association is located.

*As added by P.L.193-1997, SEC.2. Amended by P.L.73-2004, SEC.44; P.L.213-2007, SEC.105; P.L.217-2007, SEC.103;*

*P.L.35-2010, SEC.206.*

**IC 28-15-2-3**

**Denial of rights and privileges; appeal**

Sec. 3. If the department denies the request of a savings association under section 2 of this chapter to exercise any rights and privileges that are granted to federal savings associations, the savings association may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings association is located. In an appeal under this section, the court shall determine the matter de novo.

*As added by P.L.193-1997, SEC.2.*