

## **IC 28-6.1-6**

### **Chapter 6. General Powers of a Savings Bank**

#### **IC 28-6.1-6-1**

##### **Discounting, negotiating, selling, and guaranteeing evidences of debt**

Sec. 1. A savings bank may discount, negotiate, sell, and guarantee promissory notes, bonds, drafts, acceptances, bills of exchange, and other evidences of debt.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-2**

##### **Buying and selling exchange, coin, and bullion**

Sec. 2. A savings bank may buy and sell exchange, coin, and bullion.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-3**

##### **Loaning money**

Sec. 3. A savings bank may loan money.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-4**

##### **Borrowing money**

Sec. 4. A savings bank may borrow money and do the following:

- (1) Issue notes, bonds, or debentures to evidence that borrowing.
- (2) Mortgage, pledge, or hypothecate any of its assets to secure the repayment of that money.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-5**

##### **Receiving savings and demand deposits**

Sec. 5. (a) A savings bank may receive savings deposits and, subject to subsection (b), demand deposits.

(b) If a savings bank accepts demand deposits, the savings bank shall establish and maintain the reserve balances prescribed by law applicable to banks and trust companies or by any general rules of the department, when the law, rules, and regulations apply to all banks and trust companies alike.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-6**

##### **Receiving deposits of securities and personal property**

Sec. 6. A savings bank may receive deposits of securities or other personal property from any person or corporation, upon terms agreed upon by the parties.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-7**

**Contracting for and receiving highest rate of interest**

Sec. 7. A savings bank may contract for and receive on loans and discounts the highest rate of interest allowed to be contracted for and received by individuals.

*As added by P.L.42-1993, SEC.72.*

**IC 28-6.1-6-8**

**Accepting drafts for future payment; issuing letters of credit**

Sec. 8. A savings bank may accept for future payment drafts drawn upon the savings bank by its customers and may issue letters of credit with a specific expiration date authorizing the holders of the letters to draw drafts upon the savings bank or its correspondents at sight or on time.

*As added by P.L.42-1993, SEC.72.*

**IC 28-6.1-6-9**

**Exercising general banking powers; issuing money**

Sec. 9. A savings bank may exercise all the powers incidental, proper, necessary, or usual in carrying on a general banking business, but it may not issue bills to circulate as money.

*As added by P.L.42-1993, SEC.72.*

**IC 28-6.1-6-10**

**Receiving deposits of state and federal public funds**

Sec. 10. (a) A savings bank may receive deposits of state and federal public funds:

- (1) on the same terms and conditions;
- (2) with the same rights and privileges; and
- (3) subject to the same duties and obligations;

as provided by law for banks of discount and deposit, trust companies, and other financial institutions.

(b) The power under subsection (a) includes the right to pledge securities or other assets for the repayment of the deposits if the pledge is permitted by applicable law or regulation.

*As added by P.L.42-1993, SEC.72. Amended by P.L.35-2010, SEC.145.*

**IC 28-6.1-6-11**

**Acting as fiscal or transfer agent of government bodies**

Sec. 11. A savings bank may act as a fiscal or transfer agent of the United States or of any state, municipality, body politic or corporate, and in that capacity receive and disburse money.

*As added by P.L.42-1993, SEC.72.*

**IC 28-6.1-6-12**

**Transferring, registering, and countersigning certificates of stock, bonds, and other evidences of indebtedness**

Sec. 12. A savings bank may transfer, register, and countersign certificates of stock, bonds, or other evidence of indebtedness and authenticate and certify the bonds and certificates of indebtedness.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-13**

#### **Acting as agent to buy and sell transportation**

Sec. 13. A savings bank may act as an agent to buy and sell domestic and foreign transportation.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-14**

#### **Soliciting and writing insurance; prohibitions; authority to purchase and hold life insurance**

Sec. 14. (a) A savings bank may solicit and write insurance as an insurance producer or a broker for any insurance company authorized to do business in the state or states where the insurance producer or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an insurance producer for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the insurance producer operates.

(c) A savings bank or its affiliate that acts as an insurance producer for the sale of a life insurance policy or an annuity contract under subsection (b):

- (1) is subject to all requirements of IC 27 with respect to the insurance producer's activity in Indiana; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(d) A savings bank or its affiliate may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; 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 savings bank or its affiliate.

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

(f) Subject to any limitations or restrictions that the department may impose by rule or policy, a savings bank 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 bank's board.
- (2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the savings bank's board.

- (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.42-1993, SEC.72. Amended by P.L.262-1995, SEC.67; P.L.188-1997, SEC.8; P.L.63-2001, SEC.14 and P.L.134-2001, SEC.16; P.L.130-2002, SEC.7; P.L.178-2003, SEC.92; P.L.10-2006, SEC.36 and P.L.57-2006, SEC.36.*

#### **IC 28-6.1-6-15**

##### **Acting as attorney**

Sec. 15. A savings bank may act as an attorney in fact or agent of any foreign or domestic person or corporation for any lawful purpose.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-16**

##### **Receiving personal property for deposit**

Sec. 16. (a) A savings bank may do the following:

- (1) Receive upon deposit for safekeeping or in escrow, money, bonds, mortgages, jewelry, plate, stock, securities, valuable papers of any kind, and other personal property.
- (2) Lease receptacles for safe deposits of personal property.

(b) The savings bank may prescribe terms and conditions not inconsistent with this section for the receiving or leasing authorized by subsection (a).

(c) A savings bank or any of the savings bank's assets are not liable for the value of any property received by the savings bank under the power conferred by this section or for damages for the loss, theft, or misappropriation of the property.

(d) A savings bank may procure and carry insurance for the benefit of the owners of property received by the savings bank under the power conferred by this section.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-17**

##### **Acting under court appointment**

Sec. 17. A savings bank may act under court appointment as any of the following:

- (1) Commissioner for the sale of real property.
- (2) Guardian of the person or estate of an incapacitated person (as defined in IC 29-3-1-7.5), or in other instances where a guardian may be appointed.
- (3) Trustee, receiver, conservator, or committee of the property or estate of a person or corporation in insolvency or bankruptcy proceedings.
- (4) Depository of money paid into court, whether for the benefit of a person or corporation.
- (5) In any other fiduciary capacity.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-18**

#### **Acting in probate**

Sec. 18. (a) A savings bank may do any of the following:

- (1) Act as the personal representative of the estate of a deceased individual.
- (2) Act as the trustee under the last will and testament of a deceased individual.
- (3) Act under court appointment as personal representative or trustee under a last will and testament, when the savings bank is the successor to a corporation appointed in the last will and testament.

(b) When an individual is appointed with a savings bank as receiver, guardian, commissioner, trustee, or personal representative, the individual's appointment may be under the limitation of powers and upon the terms and conditions of possession and control of the trust assets by the savings bank, or otherwise. If the individual is required to give bond or security, the bond or security shall be as:

- (1) the individual and the savings bank agree; and
- (2) approved by the court or judge making the appointment.

(c) When an individual who is appointed in a fiduciary capacity is required to give a bond or security for the faithful performance of duties, the savings bank may guarantee or become surety for the individual if:

- (1) the savings bank takes possession and control of the assets involved; and
- (2) approved by the court having jurisdiction of the fiduciary.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-19**

#### **Acting as guardian, trustee, or personal representative**

Sec. 19. (a) A savings bank may act under court appointment as guardian, trustee, or personal representative on the application or consent of a person acting or entitled to act as such and in the place of that person.

(b) An appointment under subsection (a) may be made:

- (1) upon notice required by law to the persons interested in the estate or fund; and
- (2) with the consent of the principal beneficiaries or other persons interested in the estate or fund;

as the court making the appointment considers proper.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-20**

#### **Taking, accepting, and executing trusts**

Sec. 20. A savings bank may do any of the following:

- (1) Take, accept, and execute a legal trust, duties, and powers in regard to:
  - (A) the holding, management, sale, or disposition of property; and
  - (B) the rents and profits from that property;

that are granted or confided to the savings bank by any authority.

(2) Take, accept, and execute a trust and any powers that may be conferred upon the savings bank by any authority.

(3) Generally execute legal trusts of every description.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-21**

##### **Acting in fiduciary capacity**

Sec. 21. (a) Except as otherwise provided in this article, a savings bank may act:

(1) in a fiduciary capacity permitted by this article; and

(2) as commissioner for the sale of real estate;

without bond or other security.

(b) When a savings bank is acting in a fiduciary capacity, the savings bank may administer oaths attested by the signature of the savings bank's secretary or cashier and the savings bank's seal in the same fashion as an individual acting in the same capacity may administer oaths.

(c) The court having jurisdiction of the fiduciary may require a bond or other security at any time. Upon failure of the savings bank to give a bond or security as required, the court may remove the savings bank and revoke the savings bank's appointment.

(d) A savings bank may not pledge or deposit any of its assets as a condition to the exercise of any of its powers as a fiduciary.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-22**

##### **Receiving fees, commissions, gifts, and things of value**

Sec. 22. Except as otherwise provided by law, an officer, a trustee, an employee, an agent, or an attorney of a savings bank commits a Class A misdemeanor if the individual stipulates for, receives, or agrees to receive a fee, commission, gift, or thing of value from any person for the purpose of procuring or attempting to procure for any person:

(1) a loan from a savings bank; or

(2) the purchase or discount of any paper, note, draft, check, or bill of exchange by a savings bank.

*As added by P.L.42-1993, SEC.72.*

#### **IC 28-6.1-6-22.5**

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

Sec. 22.5. (a) Except for interest at the legal rate on a loan or advancement, a savings bank 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 bank 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 bank 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 bank as the fiduciary.

*As added by P.L.192-2003, SEC.5.*

### **IC 28-6.1-6-23**

#### **Requesting mergers, consolidations, and joinings**

Sec. 23. Notwithstanding any other provision of this article, a savings bank may request under IC 28-1-7-25 or IC 28-3-2-10 that the department order its merger, consolidation, or other joining with a bank or trust company organized under IC 28-1 or with a national banking association.

*As added by P.L.42-1993, SEC.72.*

### **IC 28-6.1-6-24**

#### **Request to exercise rights and privileges granted to national banks; appeal**

Sec. 24. (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) Subject to the conditions set forth in this section, a savings bank may exercise the rights and privileges that are or may be granted to national banks domiciled in Indiana.

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

- (1) granted to national banks; but
- (2) not authorized for a savings bank 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 savings bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the company.

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

(e) 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 savings bank would adversely affect the safety and soundness of the savings bank;
- (3) the exercise of the requested rights and privileges by the savings 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 savings bank.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings 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 savings bank may exercise the requested rights and privileges only if the savings 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 savings 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.

(g) The exercise of rights and privileges by a savings 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.

(h) If a savings 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 savings 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 savings banks 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 bank under this section to exercise any rights and privileges that are granted to national banks, the savings bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings 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.5. Amended by P.L.213-2007, SEC.62; P.L.217-2007, SEC.60; P.L.35-2010, SEC.146.*

### **IC 28-6.1-6-25**

#### **Requirement to provide property tax information in certain transactions**

Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.

*As added by P.L.64-2004, SEC.31.*

### **IC 28-6.1-6-26**

#### **Authorization for savings banks to use fiduciary funds in conflict of interest transactions; conditions; notice; required consent**

Sec. 26. (a) Unless otherwise provided in an agreement or a trust, a savings bank that holds funds or property as a fiduciary may use the funds or property to purchase from the savings bank or an affiliate of the savings bank a product, service, or security, including an insurance product or security that is underwritten by the savings bank, an affiliate of the savings bank, or a syndicate or selling group that includes the savings bank or an affiliate of the savings bank, if:

- (1) the purchase price and any ongoing charges and costs are fair, reasonable, and substantially equivalent to the cost of similar products and services; and
- (2) the purchase complies with IC 30-4-3.5.

The compensation for the product, service, or security received by the savings bank or an affiliate of the savings bank or a syndicate or selling group that includes the savings bank, or an affiliate of the savings bank, may be in addition to the compensation that the savings bank is otherwise entitled to from the fiduciary account.

(b) A savings bank that makes a purchase or sale described in subsection (a) shall disclose, at least annually, to each person entitled to receive statements of account activity from the savings bank any purchase or sale made by the savings bank during the year. The disclosure must be in writing or an electronic format and include the following:

- (1) Any capacity in which the savings bank or an affiliate of the savings bank acts for:
  - (A) the issuer of the securities; or
  - (B) the provider of the products or services;that is the subject of the purchase or sale.
- (2) A statement that the savings bank or an affiliate of the savings bank has an interest in the subject of the purchase or sale, if applicable.
- (3) The rate and method by which that compensation was determined.
- (4) The name, telephone number, street address, and mailing address of an officer of the savings bank who may be contacted for further information.
- (5) A notice that the savings bank's ability to make transactions described in subsection (a) ends upon receipt at any time of a notice of objection by a majority of the persons entitled to receive statements of account activity.

(c) The following apply to a purchase or sale under subsection (a):

(1) Except as provided in subdivisions (2) and (3), if the fiduciary relationship is a trust or an agency, the trustee or agent shall treat the purchase or sale under subsection (a) as if it were a conflict of interest transaction under IC 30-4-3-5 and shall give any notice and obtain any consent that may be required under IC 30-4-3-5, subject to the following:

(A) IC 30-2-14-16 applies to any notice required to be given by a trustee or an agent under this subdivision, subject to the following:

(i) If the fiduciary relationship is a revocable trust with one (1) or more living grantors, the trustee must give notice only to the living grantors, who shall be considered to have all income and principal interests in the trust at the time the notice is given. If a grantor is incapacitated, the trustee shall give notice to the grantor's court appointed guardian, the principal under a durable power of attorney, or a co-trustee of the revocable trust, unless the guardian, principal, or co-trustee is the savings bank that seeks the consent. If the representative of the incapacitated grantor is the savings bank that seeks the consent to a purchase or sale under subsection (a), the trustee shall obtain consent from the court.

(ii) If the fiduciary relationship is a revocable trust and the assets of the revocable trust are distributable to one (1) or more other trusts, notice shall be given to the trustees of the other trusts. However, if the savings bank that seeks the consent to a purchase or sale under subsection (a) is the trustee of another trust to which the assets of the revocable trust are distributable, the savings bank shall give notice to those beneficiaries of the other trust who are entitled to receive statements of account activity from the savings bank.

(iii) If the fiduciary relationship is an agency, the principal must consent to the purchase or sale under subsection (a) in writing in advance of the transaction. The principal shall be considered to have all income and principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide

written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by clause (A). However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by subdivision (1)(A). However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time the revocation is signed.

(3) The notice and consent otherwise required under subdivision (1) are not required if the purchase or sale under subsection (a) is specifically authorized:

(A) in the document creating the fiduciary relationship; or

(B) under IC 30-4-3-7.

*As added by P.L.202-2007, SEC.2; P.L.226-2007, SEC.6. Amended by P.L.3-2008, SEC.222.*