

IC 28

TITLE 28. FINANCIAL INSTITUTIONS

IC 28-1

ARTICLE 1. DEPARTMENT OF FINANCIAL INSTITUTIONS

IC 28-1-1

Chapter 1. Definitions and Application of Article

IC 28-1-1-1

Short title

Sec. 1. This article shall be known and may be cited as The Indiana Financial Institutions Act.

(Formerly: Acts 1933, c.40, s.1.) As amended by P.L.263-1985, SEC.1.

IC 28-1-1-2

Application of article

Sec. 2. This article applies to every financial institution and to other corporations and individuals as may by law after July 1, 1933, be subjected to the provisions of this article.

(Formerly: Acts 1933, c.40, s.2.) As amended by P.L.263-1985, SEC.2; P.L.42-1993, SEC.19.

IC 28-1-1-3

Definitions

Sec. 3. Unless a different meaning is required by the context, the following definitions apply throughout this article:

(1) "Financial institution" means any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, and includes licensees under IC 24-4.4 and IC 24-4.5.

(2) "Bank" or "bank or trust company" means a financial institution organized or reorganized as a bank, bank of discount and deposit, or trust company under the laws of this state with the express power to receive and accept deposits of money subject to withdrawal by check, and possessing such other rights and powers granted by the provisions of this article in express terms or by implication. The term "bank" or "bank or trust company" does not include a savings association, credit union, or industrial loan and investment company.

(3) "Domestic corporation" means a corporation formed under the laws of this state, and "foreign corporation" means every other corporation.

(4) "Articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto,

except where the original articles of incorporation only are expressly referred to, and includes articles of merger and consolidation, and, in the case of corporations organized before July 1, 1933, articles of reorganization, and all amendments thereto.

(5) "Incorporator" means one (1) of the signers of the original articles of incorporation.

(6) "Subscriber" means one who subscribes for shares of stock in a financial institution.

(7) "Shareholder" means one who is a holder of record of shares of stock in a financial institution.

(8) "Capital stock" means the aggregate amount of the par value of all shares of capital stock.

(9) "Capital" means the aggregate amount paid in on the shares of capital stock of a financial institution issued and outstanding.

(10) "Capital and surplus" or "unimpaired capital and unimpaired surplus" has the meaning set forth in 12 CFR 32.2.

(11) "Assets" includes all of the property and rights of every kind of a financial institution, and the term "fixed assets" means such assets as are not intended to be sold or disposed of in the ordinary course of business.

(12) "Principal office" means that office maintained by the financial institution in this state, the address of which is required by the provisions of this article to be kept on file in the office of the secretary of state.

(13) "Subscription" means any written agreement or undertaking, accepted by a financial institution, for the purchase of shares of capital stock in the financial institution.

(14) "Department" means the department of financial institutions.

(15) "Member" means a member of the department of financial institutions.

(16) "Branch" means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. The term does not include:

- (A) the principal office of a bank;
- (B) the principal office of an affiliate;
- (C) a branch of an affiliate;
- (D) an automated teller machine;
- (E) a night depository;
- (F) a temporary facility authorized in IC 28-2-13-22.5;
- (G) a loan production office;
- (H) a deposit production office; or
- (I) other service delivery mechanisms not considered by the director to be a branch.

(17) "Subsidiary" means any foreign or domestic corporation or limited liability company in which the parent bank, savings bank, savings association, or industrial loan and investment company had at least eighty percent (80%) ownership before

July 1, 1999, or is formed or acquired in accordance with IC 28-13-16 after June 30, 1999.

(18) "Savings bank" means a financial institution that:

(A) was organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993;

(B) is formed as the result of a conversion under:

- (i) IC 28-1-21.7;
- (ii) IC 28-1-21.8;
- (iii) IC 28-1-21.9; or
- (iv) IC 28-1-30; or

(C) is incorporated under IC 28-12.

(19) "Corporate fiduciary" means a financial institution whose primary business purpose is to engage in the trust business (as defined in IC 28-14-1-8) and the execution and administration of fiduciary accounts as a nondepository trust company incorporated under Indiana law.

(Formerly: Acts 1933, c.40, s.3a; Acts 1945, c.348, s.1; Acts 1965, c.356, s.23; Acts 1971, P.L.394, SEC.1.) As amended by Acts 1977, P.L.289, SEC.1; P.L.262-1983, SEC.1; P.L.42-1993, SEC.20; P.L.122-1994, SEC.39; P.L.262-1995, SEC.1; P.L.192-1997, SEC.1; P.L.79-1998, SEC.34; P.L.62-1999, SEC.1; P.L.215-1999, SEC.1; P.L.213-2007, SEC.34; P.L.217-2007, SEC.32; P.L.89-2011, SEC.31; P.L.27-2012, SEC.35.

IC 28-1-1-3.5

Affiliate relationship

Sec. 3.5. Except as otherwise provided, for purposes of this title, a company is an affiliate of any financial institution or other person subject to this title if the company bears the same relationship to the financial institution or person subject to this title as a company described in IC 28-1-18.2-1 bears to a bank.

As added by P.L.10-2006, SEC.27 and P.L.57-2006, SEC.27.

IC 28-1-1-4

"Fund"

Sec. 4. As used in IC 28-11, "fund" refers to the financial institutions fund established by IC 28-11-2-9.

As added by P.L.33-1991, SEC.2.

IC 28-1-1-5

References to savings associations

Sec. 5. A reference in the Indiana Code to any of the following shall be interpreted as a reference to a savings association (as defined in IC 28-15-1-11):

- (1) Building and loan association.
- (2) Savings and loan association.
- (3) Rural loan and savings association.
- (4) Guaranty loan and savings association.
- (5) Mutual association.
- (6) Stock association.

As added by P.L.193-1997, SEC.1.

IC 28-1-1-6

"Depository financial institution"

Sec. 6. For purposes of IC 28-1-23-16, "depository financial institution" means a financial institution that is:

- (1) a commercial bank, organized or reorganized under the law of another state (as defined in IC 28-2-17-19) or United States law;
- (2) a trust company, organized or reorganized under the law of another state (as defined in IC 28-2-17-19) or United States law;
- (3) a credit union, organized or reorganized under the law of another state (as defined in IC 28-2-17-19) or United States law;
- (4) a savings bank, organized or reorganized under the law of another state (as defined in IC 28-2-17-19) or United States law;
- (5) a savings association, organized or reorganized under Indiana law, the law of another state (as defined in IC 28-2-17-19), or United States law;
- (6) a bank of discount and deposit, organized or reorganized under the law of another state (as defined in IC 28-2-17-19) or United States law;
- (7) an industrial loan and investment company, organized or reorganized under Indiana law, the law of another state (as defined in IC 28-2-17-19), or United States law; or
- (8) a financial institution similar to those listed in subdivisions (1) through (7), organized or reorganized under Indiana law, the law of another state (as defined in IC 28-2-17-19), or United States law.

As added by P.L.81-2001, SEC.1.