

IC 28-1-2

Chapter 2. Powers and Duties of the Department

IC 28-1-2-1

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-2

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-3

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-4

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-5

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-6

Prudent conduct of business

Sec. 6. Every financial institution to which this article is applicable shall conduct and transact its business in a safe and prudent manner; shall maintain such institution in a safe and solvent condition; and shall establish and maintain safe and sound methods for the conduct of such financial institution and its business and prudential affairs.

(Formerly: Acts 1933, c.40, s.9; Acts 1971, P.L.394, SEC.6.)

IC 28-1-2-6.5

Compliance with money laundering laws; investigation and enforcement by the department

Sec. 6.5. (a) A financial institution (as defined in IC 28-1-1-3(1)), except for a licensee under IC 24-4.5, shall comply with all state and federal money laundering statutes and regulations, including the following:

- (1) The Bank Secrecy Act (31 U.S.C. 5311 et seq.).
- (2) The USA Patriot Act of 2001 (P.L. 107-56).
- (3) Any regulations, policies, or reporting requirements established by the Financial Crimes Enforcement Network of the United States Department of the Treasury.
- (4) Any other state or federal money laundering statutes or regulations that apply to a financial institution (as defined in IC 28-1-1-3(1)) other than a licensee under IC 24-4.5.

(b) The department shall do the following:

- (1) To the extent authorized or required by state law, investigate

potential violations of, and enforce compliance with, state money laundering statutes or regulations.

(2) Investigate potential violations of federal money laundering statutes or regulations and, to the extent authorized or required by federal law:

(A) enforce compliance with the federal statutes or regulations; or

(B) refer suspected violations of the federal statutes or regulations to the appropriate federal regulatory agencies.

As added by P.L.10-2006, SEC.28 and P.L.57-2006, SEC.28.

IC 28-1-2-7

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-8

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-9

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-10

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-11

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-12

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-13

Repealed

(Repealed by Acts 1971, P.L.394, SEC.31.)

IC 28-1-2-14

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-15

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-16

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-17

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-18

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-19

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-20

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-21

Repealed

(Repealed by Acts 1979, P.L.17, SEC.55.)

IC 28-1-2-22

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-23

Change in control; department approval required; application; timeframe for department's decision; conditions for approval; exempt transactions; duty to report transfer of securities; investigation by director; prior notice exemption for certain transactions

Sec. 23. (a) A corporation or an individual acting directly, indirectly, or through or in concert with one (1) or more other corporations or individuals may not acquire control of any bank, trust company, stock savings bank, holding company, corporate fiduciary, or industrial loan and investment company unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days following receipt of an application to issue a notice approving the proposed change in control. The application shall contain the name and address of the corporation, individual, or individuals who propose to acquire control.

(b) The period for approval under subsection (a) may be extended:

(1) in the discretion of the director for an additional thirty (30) days; and

(2) not to exceed two (2) additional times for not more than forty-five (45) days each time if:

(A) the director determines that the corporation, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications

described in subsection (c);

(B) the director determines that any material information submitted is substantially inaccurate; or

(C) the director has been unable to complete the investigation of the corporation, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the corporation, individual, or individuals.

(c) The department shall issue a notice approving the application only after it has become satisfied that both of the following apply:

(1) The corporation, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company in a legal and proper manner.

(2) The interests of the stockholders, depositors, and creditors of the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company and the interests of the public generally will not be jeopardized by the proposed change in control.

(d) As used in this section, "holding company" means any company (as defined in IC 28-2-15-5 before July 1, 1992, and as defined in IC 28-2-16-5 beginning July 1, 1992) that directly or indirectly controls one (1) or more state chartered financial institutions.

(e) As used in this section, "control", "controlling", "controlled by", or "under common control with" means possession of the power directly or indirectly to:

(1) direct or cause the direction of the management or policies of a bank, a trust company, a holding company, a corporate fiduciary, or an industrial loan and investment company, whether through the beneficial ownership of voting securities, by contract, or otherwise; or

(2) vote at least twenty-five percent (25%) of voting securities of a bank, a trust company, a holding company, a corporate fiduciary, or an industrial loan and investment company, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(f) The director may determine, in the director's discretion, that subsection (a) does not apply to a transaction if the director determines that the direct or beneficial ownership of the bank, trust company, stock savings bank, holding company, corporate fiduciary, or industrial loan and investment company will not change as a result of the transaction.

(g) The president or other chief executive officer of a financial institution or holding company shall report to the director any transfer or sale of shares of stock of the financial institution or holding company that results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of at least ten

percent (10%) of the outstanding stock of the financial institution or holding company. The report required by this subsection must be made not later than ten (10) days after the president or other chief executive officer becomes aware of the transfer of the shares of stock on the books of the financial institution or holding company.

(h) To assist the department in making a determination under subsection (c), the director may conduct any investigation the director determines is warranted, including any background check described in IC 28-11-5-4.5.

(i) This subsection applies to a transaction described in 12 CFR 303.83(b)(1), including the following:

- (1) The acquisition of voting shares through inheritance.
- (2) The acquisition of voting shares through a bona fide gift.
- (3) The acquisition of voting shares in satisfaction of a debt previously contracted in good faith, other than the acquisition of a defaulted loan secured by a controlling amount of the voting securities of a bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company.

In a transaction to which this subsection applies, the acquiring person shall use the person's best effort to comply with the requirements of this section. However, it is not a violation of this section if the acquiring person is not able to satisfy the requirements of this section and notifies the department of the acquisition not later than thirty (30) calendar days after the acquisition and provides any relevant information requested by the department. This subsection does not limit the authority of the department to conduct any investigation necessary to approve or disapprove the transaction under subsection (c).

(Formerly: Acts 1933, c.40, s.25a; Acts 1965, c.356, s.20; Acts 1971, P.L.394, SEC.19.) As amended by P.L.164-1988, SEC.1; P.L.3-1990, SEC.99; P.L.33-1991, SEC.4; P.L.42-1993, SEC.21; P.L.122-1994, SEC.40; P.L.262-1995, SEC.2; P.L.134-2001, SEC.6; P.L.258-2003, SEC.4; P.L.213-2007, SEC.35; P.L.217-2007, SEC.33; P.L.35-2010, SEC.97; P.L.89-2011, SEC.32; P.L.6-2012, SEC.191; P.L.27-2012, SEC.36.

IC 28-1-2-23.5

Acquisition of control of stock savings banks

Sec. 23.5. This title does not prohibit the acquisition of control of one (1) or more stock savings banks by a bank holding company, a corporation, an individual, or individuals acting in concert with one (1) or more individuals if the acquisition is in compliance with section 23 of this chapter.

As added by P.L.42-1993, SEC.22.

IC 28-1-2-24

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-25

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-26

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-27

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-28

Repealed

(Repealed by P.L.42-1993, SEC.103.)

IC 28-1-2-29

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-30

Confidential information; disclosure prohibited

Sec. 30. Except as otherwise provided, a member of the department or the director or deputy, assistant, or any other person having access to any such information may not disclose to any person, other than officially to the department, by the report made to it, or to the board of directors, partners, or owners, or in compliance with the order of a court, the names of the depositors or shareholders in any financial institution, or the amount of money on deposit therein at any time in favor of any depositor, or any other information concerning the affairs of any such financial institution. *(Formerly: Acts 1933, c.40, s.32; Acts 1937, c.33, s.2; Acts 1939, c.102, s.1; Acts 1945, c.348, s.21; Acts 1967, c.260, s.4; Acts 1971, P.L.394, SEC.14.) As amended by Acts 1978, P.L.2, SEC.2804; P.L.17-1984, SEC.8; P.L.33-1991, SEC.8.*

IC 28-1-2-30.5

Keeping and handling of personal records; breach of security; disposal of personal records; winding up of business; providing records to the department

Sec. 30.5. (a) This section applies to the following:

(1) Any:

(A) financial institution;

(B) person required to file notification with the department under IC 24-4.5-6-202;

(C) person subject to IC 24-7; or

(D) other person subject to regulation by the department.

(2) Any person licensed or required to be licensed under IC 24-4.4 or IC 24-4.5.

(b) As used in this section, "customer", with respect to a person

described in subsection (a), means an individual consumer, or the individual's legal representative, who obtains or has obtained from the person a financial:

- (1) product; or
- (2) service;

that is to be used primarily for personal, family, or household purposes. The term does not include an affiliate of the person.

(c) As used in this section, "personal information" includes any of the following:

- (1) An individual's first and last names or first initial and last name.
- (2) Any of the following data elements:
 - (A) A Social Security number.
 - (B) A driver's license number.
 - (C) A state identification card number.
 - (D) A credit card number.
 - (E) A financial account number or debit card number.
- (3) With respect to an individual, any of the following:
 - (A) Address.
 - (B) Telephone number.
 - (C) Information concerning the individual's:
 - (i) income or other compensation;
 - (ii) credit history;
 - (iii) credit score;
 - (iv) assets;
 - (v) liabilities; or
 - (vi) employment history.

(d) As used in this section, personal information is "encrypted" if the personal information:

- (1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or
- (2) is secured by another method that renders the personal information unreadable or unusable.

(e) As used in this section, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

- (1) a Social Security number;
- (2) a driver's license number;
- (3) a state identification number; or
- (4) an account number;

are accessible as part of the personal information.

(f) As used in this section, "personal records" means any records that:

- (1) are maintained, whether as a paper record or in an electronic or a computerized form, by a person to whom this section applies; and
- (2) contain the unencrypted, unredacted personal information of one (1) or more customers or potential customers.

(g) A person to whom this section applies shall keep and handle personal records in a manner that:

- (1) reasonably safeguards the personal records from destruction, theft, or other loss; and
- (2) protects the personal records from misuse.

(h) If a breach of the security of any personal records occurs, the person maintaining the records is subject to the disclosure requirements under IC 24-4.9-3, unless the person is exempt from the disclosure requirements under IC 24-4.9-3-4.

(i) A person to whom this section applies may not dispose of personal records without first:

- (1) shredding, incinerating, or mutilating the personal records; or
- (2) erasing or otherwise rendering illegible or unusable the personal information contained in the records.

(j) If a person to whom this section applies ceases doing business, the person shall, as part of the winding up of the business, safeguard any personal records maintained by the person in accordance with this section until such time as the person is entitled or required to destroy the records under:

- (1) applicable law; or
- (2) the person's own records maintenance policies.

(k) A person to whom this section applies shall provide at the person's cost any records that the director considers relevant or material to an examination, investigation, or other matter under consideration by the department.

As added by P.L.90-2008, SEC.20. Amended by P.L.1-2009, SEC.147; P.L.35-2010, SEC.98.

IC 28-1-2-31

Acceptance of examination by federal authority

Sec. 31. The department may, in its discretion, accept any examination of any financial institution made by federal authority in lieu of the examination made under the provisions of this article.

(Formerly: Acts 1933, c.40, s.33.) As amended by P.L.263-1985, SEC.9.

IC 28-1-2-32

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-33

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-34

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-35

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-36

Solicitation of political contributions; violations

Sec. 36. It is a Class A misdemeanor for a person to knowingly solicit from any officer or employee of the department any money or other property for political assessments or contributions.

(Formerly: Acts 1933, c.40, s.38.) As amended by Acts 1978, P.L.2, SEC.2806.

IC 28-1-2-37

Repealed

(Repealed by P.L.176-1996, SEC.35.)

IC 28-1-2-38

Repealed

(Repealed by P.L.33-1991, SEC.58.)

IC 28-1-2-39

Repealed

(Repealed by P.L.90-2008, SEC.80.)

IC 28-1-2-40

Five star mortgage program established; guidelines; requirements; certifications; fees; investigations; enforcement

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 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 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 of the determination or judgment.

As added by P.L.115-2010, SEC.21.