

IC 28-11

ARTICLE 11. DEPARTMENT OF FINANCIAL INSTITUTIONS

IC 28-11-1

Chapter 1. Establishment of the Department of Financial Institutions

IC 28-11-1-1

Department of financial institutions; establishment; expenses paid by fees; not subject to oversight; examination of funds, accounts, and financial affairs

Sec. 1. (a) The department of financial institutions is established.

(b) The department:

(1) is an independent agency in the executive branch of state government; and

(2) exercises essential public functions.

(c) The expenses of the department in administering the financial institutions subject to the department's oversight are paid by financial institutions through fees established by the department under IC 28-11-3-5.

(d) Subject to subsection (e), the department's regulatory and budgetary functions are not subject to oversight by the following:

(1) The office of management and budget (notwithstanding IC 4-3-22-14).

(2) The budget agency (notwithstanding IC 4-12-1).

(3) The state personnel department (notwithstanding IC 4-15-2.2).

(4) The Indiana department of administration (notwithstanding IC 4-13-1).

(5) The office of technology (notwithstanding IC 4-13.1).

(e) The department's funds, accounts, and financial affairs shall be examined biennially by the state board of accounts under IC 5-11-1-9(c).

As added by P.L.33-1991, SEC.56. Amended by P.L.213-2007, SEC.91; P.L.217-2007, SEC.89; P.L.6-2012, SEC.200.

IC 28-11-1-2

Administration of Title 28

Sec. 2. The department shall administer this title.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-3

Members of department

Sec. 3. (a) The ultimate authority for and the powers, duties, management, and control of the department are vested in the following seven (7) members:

(1) The director of the department, who serves as an ex officio, voting member.

(2) The following six (6) members appointed by the governor

as follows:

(A) Three (3) members must have practical experience at the executive level of a:

- (i) state chartered bank;
- (ii) state chartered savings association; or
- (iii) state chartered savings bank.

(B) One (1) member must have practical experience at the executive level as a lender licensed under IC 24-4.5.

(C) One (1) member must have practical experience at the executive level of a state chartered credit union.

(D) One (1) member must be appointed with due regard for the consumer, agricultural, industrial, and commercial interests of Indiana.

(b) Not more than three (3) members appointed by the governor under subsection (a)(2) after June 30, 2006, may be affiliated with the same political party.

As added by P.L.33-1991, SEC.56. Amended by P.L.262-1995, SEC.73; P.L.79-1998, SEC.85; P.L.10-2006, SEC.68 and P.L.57-2006, SEC.68; P.L.213-2007, SEC.92; P.L.217-2007, SEC.90.

IC 28-11-1-4

Oath of office; necessity

Sec. 4. An individual must take an oath of office before assuming office as a member.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-5

Term of office; reappointment of a member; service to continue until successor appointed

Sec. 5. (a) A member appointed by the governor under section 3(a)(2) of this chapter serves a term of four (4) years but at the pleasure of the governor.

(b) The governor may reappoint a member appointed under section 3(a)(2) of this chapter.

(c) Notwithstanding the expiration of a member's term, the member continues to serve until a successor is appointed and qualified.

As added by P.L.33-1991, SEC.56. Amended by P.L.10-2006, SEC.69 and P.L.57-2006, SEC.69; P.L.35-2010, SEC.193.

IC 28-11-1-6

Chairman

Sec. 6. (a) The governor shall designate one (1) of the members as chairman. The governor may appoint the director as chairman under this section.

(b) The chairman has one (1) vote on all matters voted on by the members.

As added by P.L.33-1991, SEC.56. Amended by P.L.10-2006, SEC.70 and P.L.57-2006, SEC.70.

IC 28-11-1-7

Salary; expenses

Sec. 7. (a) Each member who is not a state officer or employee is entitled to receive an annual salary of four thousand dollars (\$4,000).

(b) Each member is entitled to receive actual and necessary travel and other expenses incurred in the performance of the member's duties.

As added by P.L.33-1991, SEC.56. Amended by P.L.10-2006, SEC.71 and P.L.57-2006, SEC.71.

IC 28-11-1-8

Officers; election; term of office

Sec. 8. (a) During the first meeting after June 30 of each year, the members shall elect the following officers:

- (1) One (1) member as vice chairman.
- (2) One (1) individual, who need not be a member, as secretary.
- (3) Other officers considered necessary by the members.

(b) The officers elected under subsection (a) hold office for one (1) year and until their successors are elected and qualified.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-9

Meetings

Sec. 9. Each year the members shall hold the following:

- (1) Regular meetings at times specified by resolution of the members.
- (2) Special meetings at the call of the chairman.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-9.1

Repealed

(Repealed by P.L.134-2012, SEC.32.)

IC 28-11-1-10

Quorum; action by majority

Sec. 10. (a) Four (4) members constitute a quorum.

(b) Unless otherwise provided for in this title, if a quorum is present, a majority of the members present is sufficient for the department to take action.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-11

Delegation of power

Sec. 11. The members may delegate a power or duty to:

- (1) the director;
- (2) an agent of the department; or
- (3) an employee of the department;

by a rule of the department adopted under IC 4-22-2 or by a resolution of the members.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-12

Adoption of rules

Sec. 12. The department may, by a majority vote of the members, adopt rules under IC 4-22-2 to implement this title.

As added by P.L.33-1991, SEC.56.

IC 28-11-1-13

Policies and procedures

Sec. 13. The members may by resolution establish policies and procedures in order to facilitate:

- (1) the supervision of financial institutions by the department; and
- (2) the licensing and regulation of persons and entities by the department under:
 - (A) this title; and
 - (B) IC 24.

As added by P.L.33-1991, SEC.56. Amended by P.L.262-1995, SEC.74; P.L.213-2007, SEC.93; P.L.217-2007, SEC.91.

IC 28-11-1-13.5

Payments by credit card, debit card, or charge card; discharge of liability; department's authority to contract with vendor; vendor transaction charge or discount fee

Sec. 13.5. (a) The department may accept payment of any of the following by credit card, debit card, charge card, or similar method:

- (1) A fee established by the department under IC 28-11-3-5.
- (2) A penalty assessed by the department under this title or IC 24-4.5.
- (3) A fee assessed:
 - (A) in connection with the director's designation of an automated central licensing system and repository under IC 24-4.5-3-503(10); and
 - (B) for:
 - (i) processing applications and renewals for licenses under IC 24-4.5-3; or
 - (ii) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under IC 24-4.5-3.

(b) If a fee or penalty described in subsection (a) is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the department receives payment or credit from the institution responsible for making the payment or credit.

(c) The department may contract with a bank or credit card vendor for acceptance of bank or credit cards. If there is a vendor transaction charge or discount fee, whether billed to the department or charged directly to the department's account, the department or the bank or credit card vendor may collect from the person using the bank or credit card a uniform fee that is determined by the department.

As added by P.L.90-2008, SEC.67.

IC 28-11-1-14

Assignments, deeds, and other documents; execution

Sec. 14. All assignments, deeds, instruments, notices, orders, rules, and other documents of the department shall be executed in the name of "The Department of Financial Institutions" by the director or, in case of the director's absence or disability, by:

- (1) the chairman;
- (2) an officer elected by the members; or
- (3) an employee of the department designated in writing by the director or the chairman.

As added by P.L.33-1991, SEC.56. Amended by P.L.213-2007, SEC.94; P.L.217-2007, SEC.92.

IC 28-11-1-15

Director's powers; state of emergency or governor's approval

Sec. 15. If the governor:

- (1) declares, under IC 10-14-3-12, a state of emergency in all or part of Indiana; or
- (2) in the absence of a declaration under subdivision (1), gives prior approval to the director;

the director is authorized to take necessary and appropriate action to establish or preserve safe and sound methods of banking and other action the director considers necessary under the circumstances to promote and safeguard the interests of depositors, debtors, consumers, creditors, or the public.

As added by P.L.213-2007, SEC.95; P.L.217-2007, SEC.93. Amended by P.L.35-2010, SEC.195.