

IC 28-2-13

Chapter 13. Branch Banks

IC 28-2-13-1

Acquired bank

Sec. 1. As used in this chapter, "acquired bank" means:

- (1) any nonsurviving bank in a merger or consolidation of banks; or
- (2) any bank that:
 - (A) sells all or substantially all of its assets; and
 - (B) subsequently dissolves as a result of the transaction.

As added by P.L.265-1985, SEC.3. Amended by P.L.171-1996, SEC.29.

IC 28-2-13-2

Acquiring bank

Sec. 2. As used in this chapter, "acquiring bank" means the surviving bank in a merger of banks, the new corporation in a consolidation of banks, or the bank that purchases all, or substantially all, of the assets of another bank.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-3

Affiliate

Sec. 3. As used in this chapter, "affiliate" means, as to a bank controlled by one (1) or more bank holding companies, another bank, savings bank, or savings association controlled by the same bank holding company or bank holding companies.

As added by P.L.265-1985, SEC.3. Amended by P.L.262-1995, SEC.53; P.L.171-1996, SEC.30; P.L.79-1998, SEC.62.

IC 28-2-13-4

Automated teller machine

Sec. 4. As used in this chapter, "automated teller machine" means unmanned electronic or mechanical equipment that performs routine banking transactions for the public.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-5

Bank

Sec. 5. As used in this chapter, "bank" has the meaning set forth in IC 28-2-17-3.

As added by P.L.265-1985, SEC.3. Amended by P.L.33-1991, SEC.22; P.L.42-1993, SEC.60; P.L.171-1996, SEC.31.

IC 28-2-13-6

Bank holding company

Sec. 6. (a) As used in this chapter, "bank holding company" means any company that has or acquires control over:

- (1) any bank; or

- (2) any company that has or acquires control over any bank.
- (b) For the purposes of this chapter:
- (1) a company is not a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity, unless the shares are held for the benefit of the shareholders of the bank;
 - (2) a company is not a bank holding company by virtue of its ownership or control of shares that are acquired by the company in connection with its underwriting of securities and that are held only for such a period of time as will permit the sale of the shares on a reasonable basis;
 - (3) a company formed for the sole purpose of participating in a proxy solicitation is not a bank holding company by virtue of its control of voting rights of shares acquired in the course of the solicitation; and
 - (4) a company is not a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two (2) years after the date of acquisition.

The department may extend, from time to time but for not more than one (1) year at a time, the two (2) year period referred to in subdivision (4), but the extension may not, in the aggregate, exceed three (3) years.

(c) For the purposes of this chapter, any successor to a bank holding company is a bank holding company from the date as of which the predecessor company became a bank holding company.
As added by P.L.265-1985, SEC.3.

IC 28-2-13-7

Branch

Sec. 7. As used in this chapter, "branch" means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. However, the term does not include:

- (1) the principal office of a bank;
- (2) the principal office of an affiliate;
- (3) a branch of an affiliate;
- (4) an automated teller machine;
- (5) a night depository;
- (6) a temporary facility authorized in IC 28-2-13-22.5;
- (7) a loan production office;
- (8) a deposit production office; or
- (9) other service delivery mechanisms not considered by the director to be a branch.

As added by P.L.265-1985, SEC.3. Amended by P.L.164-1988, SEC.4; P.L.14-1992, SEC.108; P.L.171-1996, SEC.32; P.L.35-2010, SEC.141.

IC 28-2-13-8

Branch by acquisition

Sec. 8. As used in this chapter, "branch by acquisition" means a

branch acquired by a bank as a result of a merger or consolidation of that bank with another bank or a purchase of all or substantially all of the assets of another bank.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-9

Branch de novo

Sec. 9. As used in this chapter, "branch de novo" means a branch established by the opening of a new branch and includes a branch or branches acquired from another bank without acquiring substantially all of the assets of the other bank.

As added by P.L.265-1985, SEC.3. Amended by P.L.33-1991, SEC.23; P.L.171-1996, SEC.33.

IC 28-2-13-10

Company

Sec. 10. As used in this chapter, "company" means any corporation, limited liability company, partnership, joint-stock company, business trust, voting trust, joint venture, association, or similar organization, domestic or foreign. The term may or may not include a bank holding company as the context indicates. The term does not include a bank.

As added by P.L.265-1985, SEC.3. Amended by P.L.8-1993, SEC.445.

IC 28-2-13-11

Repealed

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

IC 28-2-13-12

Control

Sec. 12. As used in this chapter, "control" means directly or indirectly:

- (1) to own, control, or hold, with power to vote, twenty-five percent (25%) or more of the voting shares of a bank or company;
- (2) to control in any manner the election of a majority of the directors or trustees of a bank or company; or
- (3) to exercise a controlling influence over the management or policies of a bank or company, as determined by the Board of Governors of the Federal Reserve System after notice and opportunity for hearing.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-13

Department

Sec. 13. As used in this chapter, "department" refers to the department of financial institutions created under IC 28-11-1-1.

As added by P.L.265-1985, SEC.3. Amended by P.L.33-1991, SEC.24.

IC 28-2-13-14**Repealed**

(Repealed by P.L.33-1991, SEC.57.)

IC 28-2-13-15**Foreign bank**

Sec. 15. As used in this chapter, "foreign bank" means a bank that has its principal office in a state other than Indiana or in the District of Columbia.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-16**Indiana affiliate**

Sec. 16. As used in this chapter, "Indiana affiliate" means, as to a bank controlled by one (1) or more bank holding companies, another Indiana bank controlled by the bank holding company or bank holding companies.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-17**Indiana bank**

Sec. 17. As used in this chapter, "Indiana bank" means a bank that has its principal office in Indiana.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-17.5**Repealed**

(Repealed by P.L.171-1996, SEC.44.)

IC 28-2-13-18**State bank**

Sec. 18. As used in this chapter, "state bank" means a bank that has been organized or reorganized under Indiana law.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-19**Branch de novo or branch by acquisition; establishment; statutory requirements**

Sec. 19. (a) Subject to subsections (b) and (c), a state bank is entitled to establish one (1) or more branches de novo and one (1) or more branches by acquisition in any location or locations within Indiana.

(b) A state bank is entitled to establish a branch de novo under this section with the written approval of the department. The location of any branch established under this section may be changed at any time to a location within Indiana when the change of location is authorized by the board of directors of the state bank and approved by the department. A state bank desiring to establish one (1) or more branches de novo under this section must file a written application in the form prescribed by the director. The department may approve or

disapprove the application. Before the department approves the application, the state bank must demonstrate to the satisfaction of the department that the applicant state bank will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the branch.

(c) The investigation of the department relative to any application as required by this subsection shall be conducted without a public hearing.

(d) A branch by acquisition may be established under this section only if done in compliance with applicable provisions of IC 28-1-7, IC 28-1-8, or IC 28-3-2.

As added by P.L.265-1985, SEC.3. Amended by P.L.279-1987, SEC.3; P.L.36-1987, SEC.9; P.L.33-1991, SEC.25; P.L.42-1993, SEC.61; P.L.122-1994, SEC.87; P.L.171-1996, SEC.34; P.L.192-1997, SEC.6.

IC 28-2-13-20

Repealed

(Repealed by P.L.33-1991, SEC.57.)

IC 28-2-13-20.5

Branch; establishment through transaction with savings association

Sec. 20.5. Notwithstanding any other provision of this title, upon receipt of approval by the department and all required federal regulatory approvals, a state bank is entitled to establish a branch through a transaction with a savings association (as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), if the transaction otherwise complies with this chapter.

As added by P.L.33-1991, SEC.26. Amended by P.L.42-1993, SEC.62; P.L.11-1998, SEC.6; P.L.35-2010, SEC.142.

IC 28-2-13-21

Repealed

(Repealed by P.L.33-1991, SEC.57.)

IC 28-2-13-22

Automated teller machine

Sec. 22. (a) A state bank is entitled to open or establish an automated teller machine in any location within Indiana or as permitted by the laws of the state in which the automated teller machine is to be located.

(b) An automated teller machine may be owned or operated individually by any state bank or jointly on a cost sharing or fee basis.

As added by P.L.265-1985, SEC.3. Amended by P.L.42-1993, SEC.63; P.L.192-1997, SEC.7.

IC 28-2-13-22.5

Temporary facilities on college or university premises

Sec. 22.5. (a) A state bank is entitled to establish a temporary

facility on the premises of an accredited college or university in Indiana for the purpose of offering limited account services.

(b) The services that may be offered at a temporary facility established under this section include:

- (1) the opening of accounts;
- (2) the acceptance of deposits; and
- (3) other services determined by the department.

(c) To establish a temporary facility under this section, a state bank is not required to submit an application to the department. However, before establishing a temporary facility under this section, a state bank must:

- (1) obtain the written permission of the college or university for the establishment and operation of the facility on the premises of the college or university; and
- (2) notify the department in writing of the intention of the state bank to establish the temporary facility.

(d) A written notice provided to the department under subsection (c)(2) must:

- (1) be in the form; and
- (2) contain the information;

prescribed by the department.

(e) A temporary facility operated by a state bank under this section:

- (1) may be operated only:
 - (A) during registration periods of the college or university; and
 - (B) for an additional period that may not exceed seven (7) days during a calendar year; and
- (2) must meet all other requirements of state law applying to state banks.

As added by P.L.262-1995, SEC.54.

IC 28-2-13-22.6

Intermittent facilities on school premises; services; notice to department; operation

Sec. 22.6. (a) As used in this chapter, "school" means:

- (1) an elementary school (as defined in IC 20-18-2-4); or
- (2) a secondary school (as defined in IC 20-18-2-18).

The term includes a public school (as defined in IC 20-18-2-15) or a nonpublic school (as defined in IC 20-18-2-12).

(b) A state bank is entitled to establish an intermittent facility on the premises of a school in Indiana for the purpose of offering limited account services as an educational tool for students.

(c) The services that may be offered at an intermittent facility established under this section include:

- (1) the opening of accounts;
- (2) the acceptance of deposits; and
- (3) other services determined by the department.

(d) To establish an intermittent facility under this section, a state bank is not required to submit an application to the department.

However, before establishing an intermittent facility under this section, a state bank must:

- (1) obtain the written permission of:
 - (A) the governing body of the school corporation, for a public school; or
 - (B) the equivalent authority for a nonpublic school; for the establishment and operation of the facility on the premises of the school; and
- (2) notify the department in writing of the intention of the state bank to establish the intermittent facility.
- (e) A written notice provided to the department under subsection (d)(2) must:
 - (1) be in the form; and
 - (2) contain the information;prescribed by the department.
- (f) An intermittent facility operated by a state bank under this section:
 - (1) may be operated only during the school year; and
 - (2) must meet all other requirements of state law applying to state banks.

As added by P.L.90-2008, SEC.34.

IC 28-2-13-23

Failure to comply; Class A infraction; violation of chapter; injunctions, costs, and fees; powers of department

Sec. 23. A person who fails to comply with this chapter commits a Class A infraction. Any person, company, bank, or bank holding company that may be or has been injured by reason of any conduct that constitutes or will constitute a violation of this chapter by any bank may sue the bank to enjoin the conduct or for damages, together with the costs of suit, including reasonable attorney's fees. In addition to the powers of the department under IC 28-11-4, the department may sue to enjoin any conduct that constitutes or will constitute a violation of this chapter or to require divestiture of any bank acquired or branch established in violation of this chapter.

As added by P.L.265-1985, SEC.3. Amended by P.L.33-1991, SEC.27.

IC 28-2-13-24

Rules

Sec. 24. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.265-1985, SEC.3.

IC 28-2-13-25

Availability of deposited funds for customer withdrawal

Sec. 25. This chapter does not affect any federal or state statutory requirements for a bank to make deposited funds available for withdrawal to its customers within designated time periods.

As added by P.L.164-1988, SEC.5.

IC 28-2-13-26**Trust office; powers; prohibited actions**

Sec. 26. (a) A bank, trust company, corporate fiduciary, or savings bank organized under the laws of Indiana or the laws of any other state or the United States may establish a trust office to exercise its powers as a fiduciary to conduct business in any location that is approved by the department. Before the department approves a trust office to exercise powers as a fiduciary under this subsection, it must determine to its satisfaction that the bank, trust company, corporate fiduciary, or savings bank will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the trust office.

(b) A trust office established under this section by a bank, trust company, or savings bank shall not:

- (1) receive deposits;
- (2) pay checks; or
- (3) lend money;

at the trust office.

As added by P.L.122-1994, SEC.88. Amended by P.L.262-1995, SEC.55; P.L.258-2003, SEC.7; P.L.27-2012, SEC.76.