

IC 28-8

ARTICLE 8. FINANCIAL SERVICES

IC 28-8-1

Chapter 1. Bank Service Corporations

IC 28-8-1-1

Definitions

Sec. 1. For the purposes of this chapter:

(a) "Department" shall mean the department of financial institutions for the state of Indiana.

(b) "Bank services" shall mean check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank or trust company.

(c) "Bank service corporation" shall mean a corporation organized to perform bank services for two or more banks or trust companies, each of which owns a portion of the capital stock of such corporation.

(d) "Invest" shall include any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan or loans, or otherwise; provided, however, payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment shall not be deemed an investment.

(Formerly: Acts 1963, c.359, s.1.) As amended by P.L.263-1985, SEC.201.

IC 28-8-1-1.5

Investment in corporation by bank or trust company authorized

Sec. 1.5. Notwithstanding any limitation or prohibition otherwise imposed by any provision of the laws of this state, any bank or trust company may invest in a bank service corporation upon the same terms and conditions as are provided by Section 709 of the Garn-St. Germain Depository Institutions Act of 1982 (Public Law 97-320; 96 Stat. 1469) for federally insured banks, and any such bank service corporation may perform the same functions, subject to the same limitations and restrictions, as are prescribed by the Garn-St. Germain Depository Institutions Act of 1982.

As added by P.L.267-1983, SEC.2.

IC 28-8-1-2

Authority of two or more banks and trust companies to invest

Sec. 2. Any two (2) or more banks or trust companies may invest in a bank service corporation an amount not to exceed ten percent (10%) of the capital and surplus of each of them as defined in IC 28-1-1.

(Formerly: Acts 1963, c.359, s.2.) As amended by P.L.263-1985, SEC.202; P.L.213-2007, SEC.75; P.L.217-2007, SEC.73.

IC 28-8-1-3

Continuation with single bank or trust company as sole stockholders

Sec. 3. In the event the stock of a bank service corporation is held by two (2) banks or trust companies, one (1) of the banks or trust companies ceases to use the services of the bank service corporation and ceases to hold stock in such corporation thereby leaving the other bank or trust company the sole stockholder in such corporation, the bank service corporation may continue to function as such and the remaining bank may continue to hold stock in such corporation.

(Formerly: Acts 1963, c.359, s.3.)

IC 28-8-1-4

Application of competitive nonmember bank or trust company for service; duties

Sec. 4. Whenever any bank or trust company requests bank service from a bank service corporation which supplies the same type of bank service to other banks or trust companies and the applying bank or trust company is competitive with any bank or trust company which holds stock in the bank service corporation, such corporation must agree to render such services, and either

(a) issue stock to the applying bank or trust company and furnish bank services to such applying bank or trust company on the same basis as to other banks or trust companies holding stock in the bank service corporation, or

(b) furnish bank services to the applying bank or trust company at rates no higher than necessary to reflect fairly the cost of such services including the reasonable cost of the capital provided to such corporation by its stockholders, at the option of the banking service corporation, unless comparable services at a competitive overall cost are available to the applying bank or trust company from another source, or unless the furnishing of the services sought by the applying bank or trust company would be beyond the practical capacity of the bank service corporation.

In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service corporation to prove the availability of bank services from another source.

(Formerly: Acts 1963, c.359, s.4.)

IC 28-8-1-5

Regulation and examination

Sec. 5. No bank or trust company subject to examination by the department may cause to be performed, by contract or otherwise, any bank services for itself, either on or off its premises, until such time as assurances are furnished to the department by the bank or trust company and the bank service corporation performing such bank services that the performance thereof will be subject to regulation and examination by the department to the same extent as if such bank services were being performed by the bank or trust company on its

own premises.

(Formerly: Acts 1963, c.359, s.5.)

IC 28-8-2

Repealed

(Repealed by P.L.265-1985, SEC.7.)

IC 28-8-3

Repealed

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

IC 28-8-4

Chapter 4. Money Transmitters

IC 28-8-4-1

Application of chapter

Sec. 1. This chapter does not apply to the following:

- (1) The United States or an instrumentality of the United States.
- (2) The state, a political subdivision of the state, or an instrumentality of the state or of a political subdivision of the state.
- (3) A bank, a bank holding company, an industrial loan and investment company, a credit union, a savings association, a savings bank, a mutual bank, or a mutual savings bank organized under the laws of any state or the United States.
- (4) A stored value card issued by a state or federally chartered financial institution.

As added by P.L.42-1993, SEC.85. Amended by P.L.172-1997, SEC.23; P.L.79-1998, SEC.81; P.L.258-2003, SEC.16; P.L.10-2006, SEC.51 and P.L.57-2006, SEC.51; P.L.89-2011, SEC.55.

IC 28-8-4-2

Applicant

Sec. 2. As used in this chapter, "applicant" means a person filing an application for a license under this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-3

Authorized delegation

Sec. 3. As used in this chapter, "authorized delegate" means an entity designated by a licensee to:

- (1) sell or issue payment instruments; or
- (2) engage in the business of transmitting money on behalf of the licensee.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-3.5

Closed system stored value card

Sec. 3.5. As used in this chapter, "closed system stored value card" refers to a stored value card the use of which is limited to one (1) or more specified merchants or locations.

As added by P.L.10-2006, SEC.52 and P.L.57-2006, SEC.52.

IC 28-8-4-4

Control

Sec. 4. As used in this chapter, "control" means:

- (1) ownership; or
 - (2) the power to vote at least twenty-five percent (25%);
- of the outstanding voting securities of a licensee or controlling person.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-5**Controlling person**

Sec. 5. As used in this chapter, "controlling person" means a person in control of a licensee.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-6**Department**

Sec. 6. As used in this chapter, "department" means the members of the department of financial institutions.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-7**Director**

Sec. 7. As used in this chapter, "director" has the meaning set forth in IC 28-11-2-1.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-8**Executive officer**

Sec. 8. As used in this chapter, "executive officer" means a person who is or performs the duties of the licensee's:

- (1) president;
- (2) chief executive officer;
- (3) treasurer; or
- (4) chief financial officer.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-9**Key shareholder**

Sec. 9. As used in this chapter, "key shareholder" means:

- (1) a person who owns; or
- (2) a group of persons acting as a unit that own;

at least twenty-five percent (25%) of a class of an applicant's stock.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-10**Licensed activities**

Sec. 10. As used in this chapter, "licensed activities" means the activities:

- (1) that a licensee engages in within Indiana; and
- (2) for which a licensee has obtained a license under this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-11**Licensee**

Sec. 11. As used in this chapter, "licensee" means a person licensed under this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-12

Material litigation

Sec. 12. As used in this chapter, "material litigation" means litigation that under generally accepted accounting principles is considered significant to the financial health of a business and would be required to be referenced in a corporation's or business's annual audited financial statements, report to shareholders, or a similar document.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-13

Money transmission

Sec. 13. As used in this chapter, "money transmission" means:

- (1) the sale or issuance of payment instruments primarily for personal, family, or household purposes; or
- (2) engaging in the business of:
 - (A) receiving money for transmission from; or
 - (B) transmitting money to;any location and by any means, including a payment instrument, wire, facsimile, or electronic transfer, primarily for personal, family, or household purposes.

As added by P.L.42-1993, SEC.85. Amended by P.L.89-2011, SEC.56.

IC 28-8-4-14

Outstanding payment instrument

Sec. 14. As used in this chapter, "outstanding payment instrument" means a payment instrument issued by the licensee that:

- (1) has been sold in the United States;
- (2) has been sold:
 - (A) by the licensee; or
 - (B) by an authorized delegate of the licensee and has been reported to the licensee as having been sold; and
- (3) has not been paid by or on behalf of the licensee.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-15

Payment instrument

Sec. 15. (a) As used in this chapter, "payment instrument" means:

- (1) a check;
- (2) a draft;
- (3) a money order;
- (4) a traveler's check;
- (5) a stored value card, other than a closed system stored value card; or
- (6) an instrument or written order for the transmission or payment of money;

sold or issued to one (1) or more persons, whether such instrument is negotiable.

(b) As used in this chapter, "payment instrument" does not

include:

- (1) a credit card voucher;
- (2) a letter of credit;
- (3) an instrument that is redeemable by the issuer in goods or services; or
- (4) a closed system stored value card.

As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.53 and P.L.57-2006, SEC.53.

IC 28-8-4-16

Permissible investments

Sec. 16. As used in this chapter, "permissible investments" means:

- (1) cash;
- (2) certificates of deposit or other debt obligations of a financial institution, either domestic or foreign;
- (3) bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers' acceptances, that are eligible for purchase by member banks of the Federal Reserve system;
- (4) an investment bearing a rating of one (1) of the three (3) highest grades as defined by a nationally recognized organization that rates such securities;
- (5) investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state, municipality, or any political subdivision thereof;
- (6) shares in a money market mutual fund, interest-bearing bills or notes or bonds, debentures or stock traded on any national securities exchange or on a national over-the-counter market, or mutual funds primarily composed of such securities;
- (7) a demand borrowing agreement or agreements made to a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange;
- (8) receivables that are due to a licensee from the licensee's authorized delegates under a contract described in section 49 of this chapter, which are not past due or doubtful of collection; or
- (9) an investment that is approved by the director.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-17

Person

Sec. 17. As used in this chapter, "person" means an individual, a partnership, an association, a joint stock association, a trust, or a corporation.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-18

Security device

Sec. 18. As used in this chapter, "security device" includes a

surety bond, an irrevocable letter of credit, or other similar security device.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-19

The state

Sec. 19. As used in this chapter, "the state" means Indiana.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-19.5

Stored value card

Sec. 19.5. As used in this chapter, "stored value card" means a card or device that:

- (1) may be used by a holder to:
 - (A) perform financial transactions; or
 - (B) obtain, purchase, or receive money, goods, or services; in an amount or having a value that does not exceed the dollar value of the card; and
- (2) has a magnetic stripe or computer chip that enables dollar values to be electronically added to or deducted from the dollar value of the card.

As added by P.L.10-2006, SEC.54 and P.L.57-2006, SEC.54.

IC 28-8-4-20 Version a

License required; application; felonies; evidence of compliance; criminal background checks

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 20. (a) A person may not engage in the business of money transmission without a license required by this chapter.

(b) An application for a license must be submitted on a form prescribed by the department and must include the information required by the department.

(c) An application submitted under this section must indicate whether any individuals described in section 35(b)(2) or 35(b)(3) of this chapter:

- (1) are, at the time of the application, under indictment for a felony under the laws of Indiana or any other jurisdiction; or
- (2) have been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(d) The director may request evidence of compliance with this section at:

- (1) the time of application;
- (2) the time of renewal of a license; or
- (3) any other time considered necessary by the director.

(e) For purposes of subsection (d), evidence of compliance may include:

- (1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for an individual described in

- section 35(b)(2) or 35(b)(3) of this chapter;
- (2) credit histories; and
- (3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (d). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

As added by P.L.42-1993, SEC.85. Amended by P.L.63-2001, SEC.20 and P.L.134-2001, SEC.22; P.L.10-2006, SEC.55 and P.L.57-2006, SEC.55; P.L.90-2008, SEC.56; P.L.35-2010, SEC.180.

IC 28-8-4-20 Version b

License required; application; felonies; evidence of compliance; criminal background checks; tax warrant list

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 20. (a) A person may not engage in the business of money transmission without a license required by this chapter.

(b) An application for a license must be submitted on a form prescribed by the department and must include the information required by the department.

(c) An application submitted under this section must indicate whether any individuals described in section 35(b)(2) or 35(b)(3) of this chapter:

- (1) are, at the time of the application, under indictment for a felony under the laws of Indiana or any other jurisdiction; or
- (2) have been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(d) The director may request evidence of compliance with this section at:

- (1) the time of application;
- (2) the time of renewal of a license; or
- (3) any other time considered necessary by the director.

(e) For purposes of subsection (d), evidence of compliance may include:

- (1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for an individual described in section 35(b)(2) or 35(b)(3) of this chapter;
- (2) credit histories; and
- (3) other background checks considered necessary by the

director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (d). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(f) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

- (1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
- (2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

As added by P.L.42-1993, SEC.85. Amended by P.L.63-2001, SEC.20 and P.L.134-2001, SEC.22; P.L.10-2006, SEC.55 and P.L.57-2006, SEC.55; P.L.90-2008, SEC.56; P.L.35-2010, SEC.180; P.L.172-2011, SEC.134.

IC 28-8-4-21

Form of license applications; security devices; fees

Sec. 21. (a) An application for a license under this chapter must be:

- (1) in writing;
- (2) under oath; and
- (3) in a form prescribed by the director.

(b) An application for a license must be accompanied by the following:

- (1) A security device as required by section 27 of this chapter or a deposit as required by section 29 of this chapter. If requested, the director may permit corporations that are directly or indirectly commonly controlled to engage in activities under this chapter pursuant to a single security device filed under section 27 of this chapter or a single deposit filed under section 29 of this chapter.
- (2) A nonrefundable license fee as provided in section 32 of this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-22

Repealed

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

IC 28-8-4-23

Repealed

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

IC 28-8-4-24

Contents of license applications

Sec. 24. An application must contain the following:

- (1) The name of the applicant.
- (2) The applicant's principal address.
- (3) A fictitious or trade name, if any, used by the applicant in the conduct of its business.
- (4) The location of the applicant's business records.
- (5) The history of the applicant's:
 - (A) material litigation; and
 - (B) criminal indictments, convictions, and guilty or nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.
- (6) A description of:
 - (A) the activities conducted by the applicant;
 - (B) the applicant's history of operations; and
 - (C) the business activities in which the applicant seeks to be engaged in Indiana.
- (7) A list identifying the applicant's proposed authorized delegates in Indiana.
- (8) A sample authorized delegate contract, if applicable.
- (9) A sample form of payment instrument, if applicable.
- (10) The location or locations at which the applicant and its authorized delegates propose to conduct the licensed activities in Indiana. If any business, other than the business of money transmission under this chapter, will be conducted by the applicant or another person at any location identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:
 - (A) the nature of the other business;
 - (B) the name under which the other business operates;
 - (C) the address of the principal office of the other business;
 - (D) the name and address of the business's resident agent in Indiana; and
 - (E) any other information that the director may require.

However, the applicant is not required to submit the information required by this subdivision if the location at which the other business will be conducted is the place of business of an authorized delegate that is not under common control with the applicant.

- (11) The name and address of the clearing bank or banks on which the applicant's payment instruments will be drawn or through which such payment instruments will be payable.
- (12) Documents revealing that the applicant has a net worth of at least one hundred thousand dollars (\$100,000), calculated in

accordance with generally accepted accounting principles.

(13) In addition to the requirements of subdivision (12), an applicant that sells payment instruments at more than one (1) location or through authorized delegates must have an additional net worth of the lesser of:

(A) fifty thousand dollars (\$50,000) for each location in Indiana;

(B) fifty thousand dollars (\$50,000) for each authorized delegate located in Indiana; or

(C) five hundred thousand dollars (\$500,000).

As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.56 and P.L.57-2006, SEC.56; P.L.213-2007, SEC.76; P.L.217-2007, SEC.74.

IC 28-8-4-25

Applicants not organized as sole proprietorship; contents of applications

Sec. 25. In addition to the items listed in section 24 of this chapter, if an applicant is not organized as a sole proprietorship, the applicant must provide the following items and information relating to the applicant's organizational structure:

(1) State of incorporation or organization.

(2) Date of incorporation or organization.

(3) A certificate from the state in which the applicant was incorporated or organized stating that the entity is in good standing.

(4) A description of the organizational structure of the applicant, including the following:

(A) The identity of the parent of the applicant.

(B) The identity of each subsidiary of the applicant.

(C) The names of the stock exchanges, if any, in which the applicant, the parent, and the subsidiaries are publicly traded.

(5) The:

(A) name;

(B) business address;

(C) residence address; and

(D) employment history;

for each individual described in section 35(b)(2) or 35(b)(3) of this chapter.

(6) The:

(A) history of material litigation; and

(B) history of criminal indictments, convictions, and guilty or nolo contendere pleas for felonies involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

for each individual described in section 35(b)(2) or 35(b)(3) of this chapter.

(7) Except as provided in subdivision (8), copies of the applicant's audited financial statements for the current year and,

if available, for the preceding two (2) years, including a:

- (A) balance sheet;
- (B) statement of income or loss;
- (C) statement of changes in shareholder equity; and
- (D) statement of changes in financial position.

A financial statement required to be submitted under this subdivision must be prepared by a certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS).

(8) If the applicant is a wholly owned subsidiary of:

- (A) a corporation publicly traded in the United States, financial statements for the current year or the parent corporation's Form 10K reports filed with the United States Securities and Exchange Commission for the preceding three (3) years may be submitted with the applicant's unaudited financial statements; or
- (B) a corporation publicly traded outside the United States, similar documentation filed with the parent corporation's non-United States regulator may be submitted with the applicant's unaudited financial statements.

(9) Copies of filings, if any, made by the applicant with the United States Securities and Exchange Commission, or with a similar regulator in a country other than the United States, not more than one (1) year before the date of filing of the application.

As added by P.L.42-1993, SEC.85. Amended by P.L.213-2007, SEC.77; P.L.217-2007, SEC.75; P.L.3-2008, SEC.224; P.L.90-2008, SEC.57; P.L.1-2009, SEC.150; P.L.89-2011, SEC.57.

IC 28-8-4-26

Repealed

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

IC 28-8-4-27

Form and amount of security devices

Sec. 27. (a) Except as provided in section 29 of this chapter, an application must be accompanied by a security device that secures the faithful performance of the obligations of the licensee to receive, handle, transmit, and pay money in connection with the:

- (1) sale and issuance of payment instruments; or
- (2) transmission of money.

(b) The security device required under subsection (a) must:

- (1) be in an amount as provided under subsection (c);
- (2) run to the state; and
- (3) be in a form acceptable to the director.

(c) The security device must be in an amount calculated as follows:

STEP ONE: Subtract one (1) from the number of locations where the applicant proposes to engage in business under the

license.

STEP TWO: Multiply the difference determined under STEP ONE by ten thousand dollars (\$10,000).

STEP THREE: Add two hundred thousand dollars (\$200,000) to the product determined under STEP TWO.

STEP FOUR: Pay the amount that is the lesser of:

- (1) the sum determined in STEP THREE; or
- (2) three hundred thousand dollars (\$300,000).

(d) If the security device filed is a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond.

As added by P.L.42-1993, SEC.85. Amended by P.L.73-2004, SEC.38.

IC 28-8-4-28

Cancellation of security devices

Sec. 28. (a) The security device provided for in section 27 of this chapter shall remain in effect until cancellation.

(b) A security device may be canceled not more than thirty (30) days after written notice is sent by first class mail to the director.

(c) Cancellation of a security device does not affect any liability incurred or accrued during the period when the security device was in effect.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-29

Deposits instead of security devices

Sec. 29. (a) In lieu of a security device, the licensee may deposit with the director, or with banks in the state as the licensee may designate and the director may approve, one (1) or more of the following:

- (1) Cash.
- (2) Interest-bearing stocks and bonds.
- (3) Notes.
- (4) Debentures.
- (5) Other obligations:
 - (A) of the United States or any agency or instrumentality of the United States;
 - (B) guaranteed by the United States;
 - (C) of the state, a city, a county, a town, a village, a school district, or an instrumentality of the state; or
 - (D) guaranteed by the state.

(b) Each item deposited under subsection (a) must be calculated based on the lesser of:

- (1) the principal amount; or
- (2) the market amount.

(c) The aggregate amount deposited under subsection (a) must be not less than the amount required under section 27 of this chapter.

(d) The deposits made under subsection (a) shall be held to secure the faithful performance of the obligations of the licensee to receive, handle, transmit, and pay money in connection with the:

- (1) sale and issuance of payment instruments; and
- (2) transmission of money.

(e) An applicant that makes a deposit under subsection (a) is entitled to receive all interest and dividends from the deposit.

(f) An applicant that makes a deposit under subsection (a) has the right, with the approval of the director, to substitute other securities for those deposited, and shall be required to do so on written order of the director made for good cause shown.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-30

Duration of security devices and deposits; reduction; elimination

Sec. 30. (a) Except as provided in subsection (b), a security device filed under section 27 of this chapter and a deposit made under section 29 of this chapter must remain in place:

- (1) during the time a licensee engages in money transmission operations in Indiana; and
- (2) for five (5) years after the date a licensee ceases money transmission operations in Indiana.

(b) Prior to the expiration of the five (5) years in subsection (a)(2), the director may permit a licensee to:

- (1) reduce a security device or a deposit to the amount of the licensee's outstanding payment instruments that remain in Indiana; or
- (2) eliminate a security device or deposit, if the licensee has no outstanding payment instruments in Indiana.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-31

Substitution of security devices

Sec. 31. On or after the date when the licensee ceases money transmission operations in Indiana, the director may permit a licensee to substitute a letter of credit or other form of security device acceptable to the director for the security device or deposit.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-32

Application fees

Sec. 32. (a) An application must be accompanied by a nonrefundable application fee as fixed by the department under IC 28-11-3-5.

(b) If a license is granted, the application fee constitutes the license fee for the applicant's activities through March 31 of the year in which the initial license is granted.

As added by P.L.42-1993, SEC.85. Amended by P.L.213-2007, SEC.79; P.L.217-2007, SEC.77; P.L.35-2010, SEC.181.

IC 28-8-4-33

Conduct of business; insurance; permissible investments; good standing

Sec. 33. (a) A license granted under this chapter permits a licensee to conduct business:

(1) at one (1) or more locations directly or indirectly owned by the licensee; or

(2) through one (1) or more authorized delegates.

(b) Each licensee shall maintain a policy of insurance issued by an insurer authorized to do business in Indiana that insures the applicant against loss by a criminal act or act of dishonesty. The principal sum of the policy shall be equivalent to the amount of the required security device required under section 27 of this chapter or deposit required under section 29 of this chapter.

(c) Except as provided in subsection (d), a licensee must at all times possess permissible investments with an aggregate market value calculated in accordance with generally accepted accounting principles of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee or an authorized delegate of the licensee in the United States.

(d) The director may waive the permissible investments requirement in subsection (c) if the dollar volume of a licensee's outstanding payment instruments does not exceed:

(1) the security device posted by the licensee under section 27 of this chapter; or

(2) the deposit made by the licensee under section 29 of this chapter.

(e) A licensee that is a corporation must at all times be in good standing with the secretary of state of the state in which the licensee was incorporated.

As added by P.L.42-1993, SEC.85. Amended by P.L.73-2004, SEC.39.

IC 28-8-4-34

Commonly controlled corporations

Sec. 34. The director may permit corporations that are directly or indirectly commonly controlled to engage in activities under this chapter, pursuant to a security device required under section 27 of this chapter or a deposit required under section 29 of this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-35

Investigations by director; issuance of licenses; controlling persons; denial of applications

Sec. 35. (a) The director shall begin an investigation after an application is complete.

(b) The director shall investigate the financial condition and responsibility, financial and business experience, and character and general fitness of:

(1) the applicant and any significant affiliate of the applicant;

(2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each controlling person.

(c) The director may conduct an onsite investigation of the applicant, the reasonable cost of which shall be borne by the applicant.

(d) The director shall issue a license to an applicant authorizing the applicant to engage in the licensed activities in Indiana for a term expiring March 31 of the year in which the license is issued if the director finds that:

(1) the applicant's business will be conducted honestly, fairly, and in a manner commanding the confidence and trust of the community; and

(2) the applicant has fulfilled the requirements imposed by this chapter.

(e) Upon application, the director shall determine whether a particular person qualifies as a controlling person. The director may waive any or all requirements of this chapter pertaining to a controlling person for good cause shown.

(f) If the director finds that:

(1) an applicant does not satisfy the requirements in subsection (d); or

(2) an application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may deny the application. The director must set forth the reasons for the denial in writing and send a copy of the reasons to the applicant.

As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.57 and P.L.57-2006, SEC.57; P.L.90-2008, SEC.58.

IC 28-8-4-36

Contesting denial of license applications

Sec. 36. (a) An applicant that is denied a license under section 35(f) of this chapter may, not more than thirty (30) days after receipt of written notice of the denial, contest the denial by serving a response on the director.

(b) The serving of a response on the director automatically stays the denial of the license until a final ruling in the hearing is announced.

(c) The director shall set a date for a hearing not less than sixty (60) days after service of the response. A later date may be set with the denied applicant's consent.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-37

License renewal fees

Sec. 37. The department shall fix an annual fee for renewal of a license under IC 28-11-3-5. The annual fee shall be paid on or before March 31 of each year.

As added by P.L.42-1993, SEC.85. Amended by P.L.213-2007, SEC.80; P.L.217-2007, SEC.78.

IC 28-8-4-38**Renewal of licenses; annual report; renewal fee; license suspension**

Sec. 38. (a) A licensee may renew a license by complying with the following:

(1) Filing with the director the annual report in the form that is prescribed by the director and sent by the director to each licensee not less than three (3) months immediately preceding the date established by the director for license renewal. The report must include the following:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statement, including a balance sheet, a statement of income or loss, a statement of changes in shareholder's equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's most recent consolidated audited annual financial statement or the parent corporation's Form 10K reports filed with the Securities and Exchange Commission for the previous three (3) years, along with the licensee's unaudited annual financial statement.

A financial statement required to be submitted under this clause must be prepared by a certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS). A financial statement not covering the immediately preceding twelve (12) month period is not considered the most recent statement for purposes of license renewal under this section.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application that have not been reported previously to the director on any other report required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information concerning any business, other than the business of money transmission under this chapter, that will be conducted at each identified location, as required under section 24(10) of this chapter.

(2) Paying the annual renewal fee described under section 37 of this chapter.

(b) A licensee that:

- (1) does not:
 - (A) file:
 - (i) a renewal report; or
 - (ii) any financial statements required by subsection (a)(1)(A);
 - by the renewal filing deadline set by the director; or
 - (B) pay the renewal fee by March 31 of each year; and
- (2) has not been granted an extension of time by the department to meet the requirements described in subdivision (1);

shall be notified by the department, in writing, that a hearing will be scheduled at which the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements. If after the hearing the license is not suspended, the department shall require a daily late fee beginning with the date the renewal report, the financial statements, or the annual renewal fee is required by this chapter in an amount fixed by the department under IC 28-11-3-5.

(c) The director may, for good cause shown, waive any requirement of this section.

As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.58 and P.L.57-2006, SEC.58; P.L.1-2007, SEC.188; P.L.213-2007, SEC.81; P.L.217-2007, SEC.79.

IC 28-8-4-39

Written reports following bankruptcies or reorganizations, license revocations or suspensions, and felony indictments and convictions

Sec. 39. A licensee shall file a written report with the director not later than fifteen (15) days after the occurrence of one (1) or more of the following events:

- (1) The filing for bankruptcy or reorganization by the licensee.
- (2) The institution of revocation or suspension proceedings against the licensee by a state or governmental authority with regard to the licensee's money transmission activities.
- (3) A felony indictment of the licensee or of a key officer or director of the licensee related to money transmission activities.
- (4) A felony conviction of the licensee or a key officer or director of the licensee related to money transmission activities.

The written report must give details concerning the event.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-40

Repealed

(Repealed by P.L.89-2011, SEC.78.)

IC 28-8-4-40.1

License not transferable or assignable

Sec. 40.1. Except in a transaction approved under section 40.2 of this chapter, a license is not transferable or assignable.

As added by P.L.89-2011, SEC.58.

IC 28-8-4-40.2

Change in control of licensee; application to department; timeframe for department's decision; conditions for approval; duty of licensee to report transfer of securities; director's discretion to require new license

Sec. 40.2. (a) As used in this section, "control" means possession of the power directly or indirectly to:

- (1) direct or cause the direction of the management or policies of a licensee, whether through the beneficial ownership of voting securities, by contract, or otherwise; or
- (2) vote at least twenty-five percent (25%) of the voting securities of a licensee, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(b) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any licensee unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

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

- (1) in the discretion of the director for an additional thirty (30) days; and
- (2) not more than two (2) additional times for not more than forty-five (45) days each time if:
 - (A) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (d);
 - (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 organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

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

- (1) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the licensee in a legal and proper manner.
- (2) The interests of the owners and creditors of the licensee and the interests of the public generally will not be jeopardized by the proposed change in control.

(e) The director may determine, in the director's discretion, that

subsection (b) does not apply to a transaction if the director determines that the direct or beneficial ownership of the licensee will not change as a result of the transaction.

(f) The president or other chief executive officer of a licensee shall report to the director any transfer or sale of securities of the licensee that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the licensee. The report required by this section must be made not later than ten (10) days after the transfer of the securities on the books of the licensee.

(g) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a licensee to apply for a new license under section 20 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.59.

IC 28-8-4-40.5

Other business at money transmission locations; notice to department

Sec. 40.5. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) Any business, other than the business of money transmission under this chapter, will be conducted by the licensee or another person, other than an authorized delegate that is not under common control with the applicant, at any location in Indiana in which the licensee conducts the business of money transmission under this chapter.

(2) Any information concerning other business conducted at the locations identified in the licensee's application under section 24(10) of this chapter changes.

(b) For each location described in subsection (a)(1) or (a)(2), the licensee shall provide to the department the information required under section 24(10) of this chapter with respect to that location:

(1) not later than fifteen (15) days after the other business begins operating at the location; or

(2) if the licensee's next application for a renewal license under section 38 of this chapter is due before the date described in subdivision (1), in the licensee's next application for a renewal license under section 38 of this chapter.

As added by P.L.10-2006, SEC.59 and P.L.57-2006, SEC.59.

Amended by P.L.213-2007, SEC.82; P.L.217-2007, SEC.80.

IC 28-8-4-40.6

Felony convictions or pleas; notice to department

Sec. 40.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, the licensee, or any individual described in section 35(b)(2) or 35(b)(3) of this chapter, has been convicted of or pleaded guilty or nolo contendere

to a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 24(5)(B) or 25(6)(B) of this chapter, whichever applies:

(1) not later than thirty (30) days after the licensee or individual described in section 35(b)(2) or 35(b)(3) of this chapter has been convicted of or pleaded guilty or nolo contendere to the felony; or

(2) if the licensee's next license renewal fee under section 37 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 37 of this chapter.

*As added by P.L.213-2007, SEC.83; P.L.217-2007, SEC.81.
Amended by P.L.90-2008, SEC.59; P.L.35-2010, SEC.182.*

IC 28-8-4-41

Onsite examinations; examination of vendors

Sec. 41. (a) The director may conduct an annual onsite examination of a licensee or an authorized delegate of a licensee.

(b) If the director determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the director has the authority to investigate and examine the records of that person. The person examined must pay the reasonably incurred costs of the examination.

(c) Except as provided in section 42(a)(2) of this chapter, the director must give the licensee forty-five (45) days written notice before conducting an onsite examination.

(d) If the director determines, based on the licensee's financial statements and past history of operations in Indiana, that an onsite examination is unnecessary, the director may waive the onsite examination.

(e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(f) An onsite examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. In lieu of an onsite examination, a director may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm. A report accepted under this subsection shall be considered, for all purposes, to be an official report of the director.

(g) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined

under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

As added by P.L.42-1993, SEC.85. Amended by P.L.10-2006, SEC.60 and P.L.57-2006, SEC.60; P.L.35-2010, SEC.183.

IC 28-8-4-42

Requests for additional financial data; onsite examinations without notice

Sec. 42. (a) If the director has a reasonable basis to believe that a licensee or an authorized delegate of a licensee is in violation of this chapter, the director may:

- (1) request financial data from the licensee in addition to that required under section 38(a)(1) of this chapter; or
- (2) conduct an in-state, onsite examination of an authorized delegate's operation or a licensee's location without prior notice to the authorized delegate or licensee.

(b) All reasonable costs of an examination incurred under subsection (a)(2) shall be paid by the:

- (1) authorized delegate whose operation is examined; or
- (2) the licensee whose location is examined.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-43

Making, keeping, and preserving records

Sec. 43. A licensee shall make, keep, and preserve the following for three (3) years:

- (1) A record or records of payment instruments sold.
- (2) A general ledger containing all asset, liability, capital income, and expense accounts for which a general ledger shall be posted at least monthly.
- (3) Settlement sheets, if received from authorized delegates.
- (4) Bank statements and bank reconciliation records.
- (5) Records of outstanding payment instruments.
- (6) Records of each payment instrument paid within the three (3) years.
- (7) A list of the names and addresses of all of the licensee's authorized delegates, as well as a copy of each authorized delegate's contract.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-44

Maintenance and availability of records

Sec. 44. (a) The records maintained under section 43 of this chapter shall be:

- (1) maintained in conformity with generally accepted accounting principles and practices in a manner that will enable

the director to determine whether the licensee is complying with the provisions of this chapter; and

(2) made reasonably available to the director.

(b) The director shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-45

Maintenance of records at foreign locations

Sec. 45. Records maintained under section 43 of this chapter may be maintained at a location that is outside Indiana if the records are made accessible to the director after the director has given fifteen (15) days written notice.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-45.5

Duty to safeguard personal records

Sec. 45.5. The following persons are subject to IC 28-1-2-30.5 with respect to any records maintained by the person:

(1) A person licensed or required to be licensed under this chapter.

(2) An authorized delegate of a person described in subdivision (1).

As added by P.L.90-2008, SEC.60.

IC 28-8-4-46

Compliance with money laundering laws; investigation and enforcement by department

Sec. 46. (a) The licensee or an authorized delegate 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 licensee or an authorized delegate.

(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.42-1993, SEC.85. Amended by P.L.10-2006, SEC.61 and P.L.57-2006, SEC.61.

IC 28-8-4-47

Confidentiality of information; exceptions

Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including:

(1) all information contained in or related to:

- (A) examination;
- (B) investigation;
- (C) operation; or
- (D) condition;

reports prepared by, on behalf of, or for the use of the director; or

(2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the department, except as provided in subsection (b).

(b) The director may provide for the release of information to representatives of:

- (1) financial institution and money services business supervisory agencies;
- (2) law enforcement agencies; or
- (3) prosecutorial agencies or offices;

of a state (as defined in IC 28-2-17-19), the United States, or a foreign country. An agency or office that receives information from the director under this subsection shall maintain the confidentiality of the information as described in IC 28-1-2-30.

(c) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on such licensees.

As added by P.L.42-1993, SEC.85. Amended by P.L.258-2003, SEC.17; P.L.213-2007, SEC.84; P.L.217-2007, SEC.82; P.L.90-2008, SEC.61.

IC 28-8-4-48

Suspension and revocation of licenses

Sec. 48. (a) After notice and hearing, the director may suspend or revoke a licensee's license if the director finds one (1) of the following conditions:

(1) A fact or condition exists that, if it had existed at the time the licensee applied for a license, would have been grounds for denying the application.

(2) The licensee's net worth becomes inadequate to meet the terms of sections 24 and 33 of this chapter and the licensee, after ten (10) days written notice from the director, fails to take

steps that the director considers necessary to remedy the deficiency.

(3) The licensee violates a material provision of this chapter or order validly promulgated by the director under authority of this chapter.

(4) The licensee is conducting its business in an unsafe or unsound manner as determined by the director.

(5) The licensee is insolvent.

(6) The licensee has suspended payment of its obligations, has made an assignment for the benefit of its creditors, or has admitted in writing its inability to pay its debts as they become due.

(7) The licensee has applied for an adjudication of bankruptcy, reorganization, arrangement, or other relief under the federal bankruptcy code.

(8) The licensee refuses to permit the director to make any examination authorized by this chapter.

(9) The licensee fails to make a report required by this chapter.

(b) If the director of the department:

(1) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(2) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

As added by P.L.42-1993, SEC.85. Amended by P.L.80-1998, SEC.20.

IC 28-8-4-48.1

Failure to file renewal form or pay renewal fee; revocation or suspension of license

Sec. 48.1. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the person fails to:

(1) file any renewal form required by the department; or

(2) pay any license renewal fee described under section 37 of this chapter;

not later than sixty (60) days after the due date.

(b) A person whose license is revoked or suspended under this section may:

(1) pay all delinquent fees and apply for a reinstatement of the person's license; or

(2) appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision resulting from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

As added by P.L.176-1996, SEC.24. Amended by P.L.89-2011, SEC.60.

IC 28-8-4-49**Authorized delegates**

Sec. 49. Licensees desiring to conduct licensed activities through authorized delegates shall authorize each delegate to operate pursuant to an express written contract, which shall provide for the following:

- (1) That the licensee appoints the person as its delegate with authority to sell payment instruments and accept funds to be transmitted by or on behalf of the licensee.
- (2) That neither a licensee nor an authorized delegate may authorize a subdelegate without the written consent of the director.
- (3) That licensees are subject to supervision and regulation by the director.
- (4) An acknowledgment that the authorized delegate consents to the director's inspection, with or without prior notice to the licensee or authorized delegate, of the books, records, and accounts of an authorized delegate of the licensee when the director has a reasonable basis to believe that the licensee or authorized delegate is in violation of this chapter.
- (5) That authorized delegates are under a duty to act only as authorized under the contract with the licensee and that an authorized delegate who exceeds the delegate's authority is subject to cancellation of the delegate's contract and disciplinary action by the director.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-50**Compliance by authorized delegates**

Sec. 50. (a) An authorized delegate may not make any fraudulent or false statement or misrepresentation to a licensee or to the director.

(b) An authorized delegate must comply with the following:

- (1) All money transmission or sale or issuance of payment instrument activities conducted by an authorized delegate shall be strictly in accordance with the licensee's written procedures provided to the authorized delegate.
- (2) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate. The failure of an authorized delegate to remit all money owing to a licensee within the time presented shall result in liability of the authorized delegate to the licensee for three (3) times the licensee's actual damages.
- (3) All funds, less fees, received by an authorized delegate of a licensee from the sale or delivery of a payment instrument issued by a licensee or received by an authorized delegate for transmission shall, from the time the funds are received by the authorized delegate until the funds or an equivalent amount are remitted by the authorized delegate to the licensee, constitute

trust funds owned by and belonging to the licensee. If an authorized delegate commingles any of the funds with any other funds or property owned or controlled by the authorized delegate, all commingled proceeds and other property shall be impressed with a trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee.

(4) An authorized delegate shall report to the licensee the theft or loss of payment instruments not more than twenty-four (24) hours after the time the authorized delegate knew or should have known of the theft or loss.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-51

Suspension and barring of authorized delegates

Sec. 51. (a) If, after notice and a hearing, the director finds that an authorized delegate of a licensee or a director, an officer, an employee, or a controlling person of the authorized delegate:

(1) has violated any provision of this chapter or order issued under this chapter;

(2) has engaged or participated in any unsafe or unsound act with respect to the business of:

(A) selling or issuing payment instruments of the licensee;
or

(B) money transmission;

(3) has made or caused to be made in an application or report filed with the director or in any proceeding before the director, any statement that was at the time and in the circumstances under which it was made, false or misleading with respect to any material fact; or

(4) has omitted to state in an application or report filed with the director a material fact that is required to be stated therein;

the director may issue an order suspending or barring such authorized delegate from becoming or continuing to be an authorized delegate of a licensee during the period for which such order is in effect.

(b) Upon issuance of an order under subsection (a), the licensee shall terminate the licensee's relationship with the authorized delegate according to the terms of the order.

(c) Any authorized delegate to whom an order is issued under this section may apply to the director to modify or rescind the order. The director shall not grant such application unless the director finds that it is in the public interest to do so and that it is reasonable to believe that the person will, if and when the person is permitted to resume being an authorized delegate of a licensee, comply with all applicable provisions of this chapter and of any regulation and order issued under this chapter.

(d) The right of an authorized delegate to whom an order is issued under this section to petition for judicial review of an order shall not be affected by the failure of the authorized delegate to apply to the director to modify or rescind the order.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-52

Applicability of law governing administrative orders and procedures; venue

Sec. 52. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.

As added by P.L.42-1993, SEC.85. Amended by P.L.35-2010, SEC.184.

IC 28-8-4-53

Civil penalties

Sec. 53. (a) If the department determines, after notice and an opportunity to be heard, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

(b) A penalty collected under this section shall be deposited into the financial institutions fund established by IC 28-11-2-9.

As added by P.L.42-1993, SEC.85. Amended by P.L.89-2011, SEC.61.

IC 28-8-4-54

Claims against licensees and authorized delegates

Sec. 54. A claim against a licensee or its authorized delegate may be brought by:

- (1) the claimant filing suit against the security device provided for in section 27 of this chapter or the deposit provided for in section 29 of this chapter; or
- (2) the director filing suit on behalf of a claimant, in one (1) action or in successive actions.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-55

Compromise, settlement, and collection of civil penalties

Sec. 55. The director, in the exercise of reasonable judgment, is authorized to compromise, settle, and collect civil penalties from a person for a violation of:

- (1) a provision of this chapter; or
- (2) an order issued or promulgated pursuant to this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-56

Injunctions

Sec. 56. If it appears to the director that a person has committed or is about to commit a violation of a provision of this chapter or an order of the director, the director may apply to a court having jurisdiction for:

- (1) an order enjoining such person from violating or continuing to violate this chapter or such other order as the nature of the case may require; or
- (2) injunctive or such other relief as the nature of the case may require.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-57

Consent orders

Sec. 57. (a) The director may enter into a consent order with a person to resolve a matter arising under this chapter.

(b) A consent order must comply with the following provisions:

- (1) Be signed by the person to whom it is issued or an authorized representative.
- (2) Indicate agreement to the terms contained within the consent.

(c) A consent order need not:

- (1) constitute an admission by a person that a provision of this chapter or an order promulgated or issued thereunder has been violated; or
- (2) constitute a finding by the director that such person has violated a provision of this chapter or an order promulgated or issued thereunder.

(d) Notwithstanding the issuance of a consent order, the director may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order, unless the consent order by its terms expressly precludes the director from doing so.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-58

Violations

Sec. 58. (a) A person who knowingly or intentionally violates a provision of this chapter for which a penalty is not specifically provided commits a Class A misdemeanor.

(b) A person who knowingly or intentionally makes a material, false statement in a document filed or required to be filed under this chapter, with the intent to deceive the recipient of the document, commits a Class C felony.

(c) A person who knowingly or intentionally fails to file a document required to be filed under this chapter commits a Class C felony.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-59

Rules and regulations

Sec. 59. (a) Rules and regulations promulgated by the director pursuant to authority conferred by this chapter will be pursuant to IC 4-22-2.

(b) At the time the director files a notice of proposed adoption,

amendment, or repeal of a rule for public comment under this chapter, a copy of the notice will be sent by first class mail postage prepaid to all then current licensees and applicants for licenses under this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-60

Jurisdiction

Sec. 60. A licensee, an authorized delegate, or a person who knowingly engages in business activities that are regulated under this chapter, with or without filing an application, is considered to have consented to the jurisdiction of the courts of Indiana for all actions arising under this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-4-61

Administration of chapter

Sec. 61. The division of consumer credit shall have charge of the administration of this chapter.

As added by P.L.42-1993, SEC.85.

IC 28-8-5

Chapter 5. Cashing Checks

IC 28-8-5-1

Application of chapter

Sec. 1. (a) This chapter does not apply to a financial institution organized under IC 28 or federal law.

(b) This chapter does not apply to a person principally engaged in the bona fide retail sale of goods or services if:

(1) the person, either incidental to or independent of a retail sale of goods or services, from time to time cashes checks; and

(2) the consideration (as defined in section 3 of this chapter) charged for cashing checks does not exceed five dollars (\$5).

As added by P.L.42-1993, SEC.86. Amended by P.L.122-1994, SEC.104; P.L.213-2007, SEC.85; P.L.217-2007, SEC.83; P.L.89-2011, SEC.62.

IC 28-8-5-2

Check or checks

Sec. 2. As used in this chapter, "check" or "checks" includes a check, draft, money order, or personal money order.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-2.5

Check cashing transaction

Sec. 2.5. As used in this chapter, "check cashing transaction" means a transaction under this chapter in which there is no written or implied agreement to hold the check for more than three (3) business days.

As added by P.L.80-1998, SEC.21.

IC 28-8-5-3

Consideration

Sec. 3. As used in this chapter, "consideration" includes a premium charged for the sale of goods or services in excess of the cash price of the sale of such goods or services.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-4

Department

Sec. 4. As used in this chapter, "department" means the members of the department of financial institutions.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-5

Repealed

(Repealed by P.L.89-2011, SEC.78.)

IC 28-8-5-6

Licensed casher of checks

Sec. 6. As used in this chapter, "licensed casher of checks" means a person licensed by the department to engage in business pursuant to the provisions of this chapter.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-7

Licensee

Sec. 7. As used in this chapter, "licensee" means a licensed casher of checks.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-8

Location

Sec. 8. As used in this chapter, "location" means a fixed or ambulatory place of business approved by the department.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-9

Person

Sec. 9. As used in this chapter, "person" means any individual, sole proprietorship, partnership, trust, joint venture, limited liability company, corporation, unincorporated organization, or other form of entity, however organized.

As added by P.L.42-1993, SEC.86. Amended by P.L.90-2008, SEC.62.

IC 28-8-5-10

Resolutions for administration of chapter

Sec. 10. The department may make regulations and establish policies and guidelines by resolution for the administration of this chapter.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-11 Version a

License required; application; other business at check cashing locations; application fee

Note: This version of section effective until 1-1-2012. See also following version of this section, effective 1-1-2012.

Sec. 11. (a) A person shall not engage in the business of cashing checks for consideration without first obtaining a license.

(b) Each application for a license shall be in writing in such form as the director may prescribe and shall include all of the following:

(1) The following information pertaining to the applicant:

(A) Name.

(B) Residence address.

(C) Business address.

(2) The following information pertaining to any individual described in section 12(b)(1) of this chapter:

(A) Name.

(B) Residence address.

- (C) Business address.
 - (D) Whether the person:
 - (i) is, at the time of the application, under indictment for a felony under the laws of Indiana or any other jurisdiction; or
 - (ii) has been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.
 - (3) The address where the applicant's office or offices will be located. If any business, other than the business of cashing checks under this chapter, will be conducted by the applicant or another person at any of the locations identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:
 - (A) the nature of the other business;
 - (B) the name under which the other business operates;
 - (C) the address of the principal office of the other business;
 - (D) the name and address of the business's resident agent in Indiana; and
 - (E) any other information that the director may require.
 - (4) Such other data, financial statements, and pertinent information as the director may require.
 - (c) The application shall be filed with a nonrefundable fee fixed by the department under IC 28-11-3-5.
- As added by P.L.42-1993, SEC.86. Amended by P.L.122-1994, SEC.105; P.L.10-2006, SEC.62 and P.L.57-2006, SEC.62; P.L.213-2007, SEC.86; P.L.217-2007, SEC.84; P.L.90-2008, SEC.63; P.L.35-2010, SEC.185.*

IC 28-8-5-11 Version b

License required; application; other business at check cashing locations; application fee; tax warrant list

Note: This version of section effective 1-1-2012. See also preceding version of this section, effective until 1-1-2012.

Sec. 11. (a) A person shall not engage in the business of cashing checks for consideration without first obtaining a license.

(b) Each application for a license shall be in writing in such form as the director may prescribe and shall include all of the following:

- (1) The following information pertaining to the applicant:
 - (A) Name.
 - (B) Residence address.
 - (C) Business address.
- (2) The following information pertaining to any individual described in section 12(b)(1) of this chapter:
 - (A) Name.
 - (B) Residence address.
 - (C) Business address.
- (D) Whether the person:
 - (i) is, at the time of the application, under indictment for a felony under the laws of Indiana or any other

- jurisdiction; or
- (ii) has been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.
- (3) The address where the applicant's office or offices will be located. If any business, other than the business of cashing checks under this chapter, will be conducted by the applicant or another person at any of the locations identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:
 - (A) the nature of the other business;
 - (B) the name under which the other business operates;
 - (C) the address of the principal office of the other business;
 - (D) the name and address of the business's resident agent in Indiana; and
 - (E) any other information that the director may require.
- (4) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:
 - (A) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
 - (B) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).
- (5) Such other data, financial statements, and pertinent information as the director may require.
- (c) The application shall be filed with a nonrefundable fee fixed by the department under IC 28-11-3-5.

As added by P.L.42-1993, SEC.86. Amended by P.L.122-1994, SEC.105; P.L.10-2006, SEC.62 and P.L.57-2006, SEC.62; P.L.213-2007, SEC.86; P.L.217-2007, SEC.84; P.L.90-2008, SEC.63; P.L.35-2010, SEC.185; P.L.172-2011, SEC.135.

IC 28-8-5-12

Issuance and refusal of licenses; evidence of compliance; criminal background checks

Sec. 12. (a) The department shall determine the financial responsibility, business experience, character, and general fitness of the applicant before issuing the license.

(b) The department may refuse to issue a license for any of the following reasons:

- (1) Any of the following has been convicted of a felony under the laws of Indiana or any other jurisdiction:
 - (A) An executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant.
 - (B) Any person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant.

- (2) The application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.
- (c) The director of the department may request evidence of compliance with this section by the licensee at:
 - (1) the time of application;
 - (2) the time of renewal of the licensee's license; or
 - (3) any other time considered necessary by the director.
- (d) For purposes of subsection (c), evidence of compliance may include:
 - (1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for any individual described in subsection (b)(1);
 - (2) credit histories; and
 - (3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

As added by P.L.42-1993, SEC.86. Amended by P.L.80-1998, SEC.22; P.L.63-2001, SEC.21 and P.L.134-2001, SEC.23; P.L.10-2006, SEC.63 and P.L.57-2006, SEC.63; P.L.213-2007, SEC.87; P.L.217-2007, SEC.85; P.L.90-2008, SEC.64; P.L.35-2010, SEC.186.

IC 28-8-5-13

Licenses not transferable or assignable

Sec. 13. Except in a transaction approved under section 13.1 of this chapter, a license is not transferable or assignable.

As added by P.L.42-1993, SEC.86. Amended by P.L.89-2011, SEC.63.

IC 28-8-5-13.1

Change in control of licensee; application to department; timeframe for department's decision; conditions for approval; duty of licensee to report transfer of securities; director's discretion to require new license

Sec. 13.1. (a) As used in this section, "control" means possession of the power directly or indirectly to:

- (1) direct or cause the direction of the management or policies of a licensee, whether through the beneficial ownership of

voting securities, by contract, or otherwise; or

(2) vote at least twenty-five percent (25%) of the voting securities of a licensee, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(b) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any licensee unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

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

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

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

(A) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (d);

(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 organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

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

(1) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the licensee in a legal and proper manner.

(2) The interests of the owners and creditors of the licensee and the interests of the public generally will not be jeopardized by the proposed change in control.

(e) The director may determine, in the director's discretion, that subsection (b) does not apply to a transaction if the director determines that the direct or beneficial ownership of the licensee will not change as a result of the transaction.

(f) The president or other chief executive officer of a licensee shall report to the director any transfer or sale of securities of the licensee that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the licensee. The report required by this section must be made not later than ten (10) days after the transfer of

the securities on the books of the licensee.

(g) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a licensee to apply for a new license under section 11 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.64.

IC 28-8-5-14

Expiration of licenses

Sec. 14. A license issued pursuant to this chapter expires on July 1 of the year following the date of issuance unless earlier surrendered, suspended, or revoked.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-15

Renewal of licenses

Sec. 15. (a) To remain in force, a license must be renewed not later than July 1 of each year, beginning with the year following the date of issuance, as set forth in section 14 of this chapter. A licensee may renew a license issued under this chapter by filing a renewal application as prescribed by the director of the department. The department shall prescribe a form for the renewal application. To be accepted for processing, a renewal application must be accompanied by:

- (1) the license renewal fee described in subsection (b); and
- (2) all information and documents requested by the director of the department.

(b) A licensee that seeks to renew a license issued under this chapter shall pay to the department before July 1 of each year a fee fixed by the department under IC 28-11-3-5 as a renewal fee. The department may fix a daily late fee under IC 28-11-3-5 for a:

- (1) renewal license application; or
- (2) renewal fee;

that is received by the department after July 1.

As added by P.L.42-1993, SEC.86. Amended by P.L.35-2010, SEC.187; P.L.89-2011, SEC.65.

IC 28-8-5-16

Check cashing requirements

Sec. 16. (a) A licensee must do the following:

- (1) Conspicuously display at each place of business a notice to the public stating the maximum charges for cashing checks.
- (2) Make payment to a customer for whom a check is being cashed upon presentment of the check.
- (3) Endorse the name in which the licensee is licensed on all checks before depositing them in a financial institution.
- (4) Cash a check made payable only to a natural person as payee unless the licensee has previously obtained appropriate documentation from a payee clearly indicating the authority of

the natural person or persons cashing the check on behalf of the payee.

(b) If a licensee engages in a check cashing transaction in which the amount on the check is at least three thousand dollars (\$3,000) or in which the sum of the amounts on two (2) or more checks from the same customer on the same day total at least three thousand dollars (\$3,000), the licensee must obtain:

- (1) the thumbprint of the customer or a photograph of both the customer and the check;
- (2) the full name of the customer;
- (3) the residence address of the customer; and
- (4) the identification of the customer by:
 - (i) Social Security number;
 - (ii) driver's license number;
 - (iii) passport number; or
 - (iv) other traceable record.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-17

Check cashing fee limitations

Sec. 17. (a) Except as otherwise provided in this chapter, a licensee may not charge check cashing fees in excess of:

- (1) the greater of ten dollars (\$10) or ten percent (10%) of the face amount of a check, in the case of a personal check; or
- (2) the greater of five dollars (\$5) or five percent (5%) of the face amount of a check, in the case of all other checks.

(b) Except as provided in this chapter, a licensee or the licensee's agent may not accept multiple checks from a:

- (1) person;
- (2) person's spouse; or
- (3) person's agent;

drawn on the person's account with the intent that the licensee may collect multiple or increased fees for cashing the checks.

As added by P.L.42-1993, SEC.86. Amended by P.L.80-1998, SEC.23; P.L.213-2007, SEC.88; P.L.217-2007, SEC.86.

IC 28-8-5-18

Record keeping; duty to safeguard personal records

Sec. 18. (a) A licensee shall keep its books, accounts, and records satisfactory to the department for each transaction for at least three (3) years from the transaction date.

(b) A licensee shall keep its books, accounts, and records separate from those of any other type of business and in a manner that reflects the order of the licensee's transactions.

(c) A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

As added by P.L.42-1993, SEC.86. Amended by P.L.90-2008, SEC.65.

IC 28-8-5-18.3

Other business at check cashing locations; notice to department

Sec. 18.3. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any of the following apply:

(1) Any business, other than the business of cashing checks under this chapter, will be conducted by the licensee or another person at any location in Indiana in which the licensee conducts the business of cashing checks under this chapter.

(2) Any information concerning other business conducted at the locations identified in the licensee's application under section 11(b)(3) of this chapter changes.

(b) For each location described in subsection (a)(1) or (a)(2), the licensee shall provide to the department the information required under section 11(b)(3) of this chapter with respect to that location:

(1) not later than fifteen (15) days after the other business begins operating at the location; or

(2) if the licensee's next application for a renewal license under section 15 of this chapter is due before the date described in subdivision (1), in the licensee's next application for a renewal license under section 15 of this chapter.

As added by P.L.10-2006, SEC.64 and P.L.57-2006, SEC.64.

IC 28-8-5-18.4

Felony convictions or pleas; notice to department

Sec. 18.4. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, the licensee, or any individual described in section 11(b)(2) of this chapter, has been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 11(b)(2)(D) of this chapter:

(1) not later than thirty (30) days after the licensee or individual described in section 11(b)(2) of this chapter has been convicted of or pleaded guilty or nolo contendere to the felony; or

(2) if the licensee's next license renewal fee under section 15 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 15 of this chapter.

*As added by P.L.213-2007, SEC.89; P.L.217-2007, SEC.87.
Amended by P.L.35-2010, SEC.188.*

IC 28-8-5-18.5

Checks drawn on valid accounts and deposited with intent to draw funds

Sec. 18.5. The check in a check cashing transaction, to the best of the licensee's knowledge, must be drawn on a valid, open, and active account and must be deposited by the licensee into a financial institution with the intent to draw the funds of that check.

As added by P.L.80-1998, SEC.24.

IC 28-8-5-19

Examination of books, accounts, and records; investigations; costs of examination; examination of vendors

Sec. 19. (a) The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.

(b) If the department examines the books, accounts, and records of a licensee, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(c) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

As added by P.L.42-1993, SEC.86. Amended by P.L.10-2006, SEC.65 and P.L.57-2006, SEC.65; P.L.35-2010, SEC.189.

IC 28-8-5-20

Investigation procedures

Sec. 20. In making investigations concerning the compliance of a licensee the department may:

- (1) administer oaths;
- (2) subpoena witnesses; and
- (3) require the production of:
 - (i) books, documents, or other tangible items; and
 - (ii) information pertaining to the identity of and location of persons having knowledge of facts concerning compliance with this chapter.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-21

Examination of records located outside Indiana

Sec. 21. If the licensee's records are located outside Indiana, the licensee shall either make them available to the department at a convenient location within Indiana or pay the reasonable and necessary expenses for the department or its representative to examine them at the place where they are maintained.

As added by P.L.42-1993, SEC.86.

IC 28-8-5-21.1**Applicability of law governing administrative orders and procedures; venue**

Sec. 21.1. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.

As added by P.L.35-2010, SEC.190.

IC 28-8-5-22**Suspension and revocation of licenses**

Sec. 22. (a) The department may suspend or revoke a license issued under this chapter pursuant to the provisions in IC 4-21.5 for:

- (1) violating this chapter; or
- (2) any reason that would be sufficient to deny an initial application for a license.

(b) If the director of the department:

- (1) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or
- (2) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

As added by P.L.42-1993, SEC.86. Amended by P.L.176-1996, SEC.25; P.L.80-1998, SEC.25.

IC 28-8-5-22.5**Failure to file renewal form or pay renewal fee; revocation or suspension of license**

Sec. 22.5. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the person fails to:

- (1) file any renewal applications prescribed by the director; or
- (2) pay any license renewal fee described under section 15 of this chapter;

not later than sixty (60) days after the date the renewal is due.

(b) A person whose license is revoked or suspended under this section may:

- (1) pay all delinquent fees and apply for reinstatement of the person's license; or
- (2) appeal the revocation to the department for an administrative review under IC 4-21.5-3.

Pending the decision resulting from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

As added by P.L.176-1996, SEC.26. Amended by P.L.35-2010, SEC.191; P.L.89-2011, SEC.66.

IC 28-8-5-23**Investigations; void check cashing transactions**

Sec. 23. (a) If the department determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the department may investigate the person.

(b) If a person knowingly acts as a cashier of checks without the license required by section 12 of this chapter, the check cashing transaction is void and the customer is not required to pay any check cashing fees to the person. If the customer has paid any check cashing fees to the person, the customer, or the department on behalf of the customer, is entitled to recover the payment from the person.
As added by P.L.42-1993, SEC.86. Amended by P.L.172-1997, SEC.24.

IC 28-8-5-24

Civil penalties; civil action by department

Sec. 24. (a) If the department determines, after notice and an opportunity to be heard, that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose upon the person a civil penalty not greater than ten thousand dollars (\$10,000) per violation.

(b) In addition to or instead of imposing a civil penalty under subsection (a), the department may bring a civil action against a person for violating this chapter.

(c) If the court finds that the defendant is guilty of violating this chapter, the court may assess a civil penalty not to exceed five thousand dollars (\$5,000) per violation.

(d) Civil penalties collected under this section shall be deposited into the financial institutions fund established by IC 28-11-2-9.
As added by P.L.42-1993, SEC.86. Amended by P.L.89-2011, SEC.67.

IC 28-8-5-24.5

Compliance with money laundering laws; investigation and enforcement by department

Sec. 24.5. (a) A licensee 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 licensee.

(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.66 and P.L.57-2006, SEC.66.

IC 28-8-5-25

Violations

Sec. 25. A licensee who violates the provisions of this chapter commits a Class A misdemeanor.

As added by P.L.42-1993, SEC.86.