

IC 28-7

ARTICLE 7. SPECIALIZED FINANCIAL INSTITUTIONS

IC 28-7-1

Chapter 1. Credit Unions

IC 28-7-1-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 9(9) of this chapter by P.L.14-1992 apply to expenditures made by credit unions after July 1, 1992, for buildings or other office space.

As added by P.L.220-2011, SEC.464.

IC 28-7-1-0.5

Definitions

Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.

(2) "Branch office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:

- (A) the principal office of a credit union;
- (B) the principal office of a credit union affiliate;
- (C) a branch office of a credit union affiliate;
- (D) an automated teller machine; or
- (E) a night depository.

(3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.

(4) "Department" refers to the department of financial institutions.

(5) "Surplus" means the credit balance of undivided earnings after losses. The term does not include statutory reserves.

(6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.

(7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization (as defined and formed under Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712) in which the credit union has invested under section 9(a)(4) of this chapter.

(8) "Premises" means any office, branch office, suboffice, service center, parking lot, real estate, or other facility where the credit union transacts or will transact business.

(9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.

(10) "Fixed assets" means:

(A) premises; and

(B) furniture, fixtures, and equipment.

(11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.

(12) "Community" means:

(A) a second class city;

(B) a third class city;

(C) a town;

(D) a county other than a county containing a consolidated city;

(E) a census tract;

(F) a township; or

(G) any other municipal corporation (as defined in IC 36-1-2-10).

(13) "Control of a related interest" refers to a situation in which an individual directly or indirectly, or through or in concert with one (1) or more other individuals, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of any class of voting securities of the related interest.

(B) The control in any manner of the election of a majority of the directors of the related interest.

(C) The power to exercise a controlling influence over the management or policies of the related interest. For purposes of this clause, an individual is presumed to have control, including the power to exercise a controlling influence over the management or policies of a related interest, if the individual:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(14) "Executive officer" includes any of the following officers of a credit union:

(A) The chairman of the board of directors.

(B) The president.

- (C) A vice president.
 - (D) The cashier.
 - (E) The secretary.
 - (F) The treasurer.
- (15) "Immediate family", for purposes of section 17.1 of this chapter, means the spouse of an individual, the individual's minor children, and any of the individual's children, including adults, residing in the individual's home.
- (16) "Officer" means any individual who is not solely a director or committee member and participates or has the authority to participate in major policymaking functions of a credit union, regardless of whether:
- (A) the individual has an official title;
 - (B) the individual's title designates the individual as an assistant; or
 - (C) the individual is serving without salary or other compensation.
- (17) "Related interest", with respect to an individual, means:
- (A) a partnership, a corporation, or another business organization that is controlled by the individual; or
 - (B) a political campaign committee:
 - (i) controlled by the individual; or
 - (ii) the funds or services of which benefit the individual.
- (18) Except as provided in section 9(a)(4) of this chapter, "capital and surplus" means the sum of:
- (A) undivided profits;
 - (B) reserve for contingencies;
 - (C) regular reserve; and
 - (D) allowance for loan and lease losses.

As added by Acts 1977, P.L.294, SEC.1. Amended by P.L.263-1995, SEC.1; P.L.188-1997, SEC.9; P.L.192-1997, SEC.16; P.L.11-1998, SEC.15; P.L.53-2002, SEC.1; P.L.141-2005, SEC.11; P.L.213-2007, SEC.65; P.L.217-2007, SEC.63; P.L.90-2008, SEC.40; P.L.35-2010, SEC.147.

IC 28-7-1-1

Persons authorized to organize; application; articles of incorporation

Sec. 1. (a) Any seven (7) persons who are residents of Indiana, of legal age, and representing not less than five hundred (500) persons who belong to one (1) or more qualified groups (as defined in section 10 of this chapter) may apply to the department for permission to organize a credit union, by signing and acknowledging, in triplicate, articles of incorporation.

(b) Those persons desiring to organize a credit union under this chapter shall make application on forms prescribed by the director. The articles shall state:

- (1) the name of the credit union;
- (2) the address of the credit union's principal office;
- (3) the purpose for which it is formed;

- (4) qualification for membership in the credit union;
 - (5) the par value of the shares;
 - (6) the maximum number of directors;
 - (7) the name, address, and term of office of each member of the first board of directors;
 - (8) the name and address of each of the incorporators and the number of shares subscribed to by each; and
 - (9) any other provisions for the regulation of the affairs of the corporation.
- (c) The application shall be signed by all incorporators before a notary public.
- (d) The department shall make a careful investigation of:
- (1) the character and management qualifications of the proposed directors and officers; and
 - (2) the economic feasibility of the proposed credit union service.
- (e) The application shall be processed as follows:
- (1) The applicant shall give notice of its application in accordance with IC 28-11-5.
 - (2) If exceptions to the application are filed with the department, a public hearing on the application may be scheduled and held in accordance with IC 28-11-5-7.
 - (3) If no exceptions to the application are filed, the department shall approve or deny the application within one hundred twenty (120) days.
- (f) If the proposed credit union is approved, triplicate copies of the articles of incorporation shall be filed with the secretary of state. The secretary of state shall file one (1) copy of the articles and shall issue a certificate of incorporation to the incorporators. The certificate of incorporation, together with two (2) copies of the articles, shall be returned to the incorporators.
- (g) The articles shall be filed with the recorder of the county in which the credit union is to be located.
- (Formerly: Acts 1961, c.182, s.1; Acts 1974, P.L.130, SEC.1.) As amended by Acts 1977, P.L.294, SEC.2; P.L.270-1983, SEC.1; P.L.52-1985, SEC.6; P.L.14-1992, SEC.121; P.L.228-1993, SEC.1; P.L.42-1993, SEC.73; P.L.263-1995, SEC.2.*

IC 28-7-1-2

Repealed

(Repealed by Acts 1977, P.L.294, SEC.14.)

IC 28-7-1-3

Bylaws; requirement to commence business; form

Sec. 3. A credit union may not commence business until it submits a completed set of bylaws to the department. The department shall have a form of bylaws prepared, consistent with this chapter, which shall be used by credit union incorporators. Bylaws shall be available to persons desiring to organize a credit union.

(Formerly: Acts 1961, c.182, s.3.) As amended by Acts 1977,

P.L.294, SEC.3; P.L.263-1995, SEC.3.

IC 28-7-1-4

Bylaws; contents

Sec. 4. (a) The bylaws, as provided in section 3 of this chapter, with acknowledgment of their adoption by the incorporators or board of directors, must provide at least the following:

- (1) That the board of directors shall annually establish a date for the annual meeting. The bylaws shall prescribe the manner of notifying the members of meetings, the manner of conducting the meetings, and the number of members constituting a quorum, which shall in no case be less than fifteen (15) members.
- (2) The number of directors of the corporation, which shall not be less than five (5), all of whom shall be members.
- (3) The powers and duties of the directors.
- (4) The duties of the officers who are elected by the board of directors.
- (5) The number of members of the supervisory committee, which shall not be less than three (3), together with their respective powers and duties.
- (6) The terms under which shares may be issued, transferred, and withdrawn and loans may be made and repaid.
- (7) Any other provisions consistent with this chapter.

(b) The bylaws must prescribe procedures which ensure that all credit union members have an opportunity to vote, either in person or by absentee ballot, at any meeting of the shareholders. A member may not vote by proxy. A member, other than a natural person, may vote through an agent designated for that purpose. An agent may not represent more than one (1) entity.

(c) This section does not prevent a credit union from having more restrictive provisions in its bylaws than are required by this chapter. *(Formerly: Acts 1961, c.182, s.4; Acts 1969, c.133, s.1.) As amended by Acts 1977, P.L.294, SEC.4; P.L.270-1983, SEC.2; P.L.52-1985, SEC.7; P.L.171-1986, SEC.1; P.L.263-1995, SEC.4.*

IC 28-7-1-5

Repealed

(Repealed by Acts 1977, P.L.294, SEC.14.)

IC 28-7-1-6

Repealed

(Repealed by Acts 1977, P.L.294, SEC.14.)

IC 28-7-1-7

Amendment of articles

Sec. 7. (a) A credit union may amend its articles of incorporation. An amendment shall be proposed by the board of directors by the adoption of a resolution setting forth the proposed amendment and directing that it be submitted to a vote of the shareholders upon

approval by the department. If the resolution is to be proposed at the annual meeting, notice of the proposal shall be included in the notice of the annual meeting. If the resolution is to be proposed at a special meeting, the special meeting shall be called by the resolution proposing the amendment, and notice of the meeting shall be given to each member of the credit union not less than five (5) days before the meeting. The notice must state the purpose of the meeting and contain the subject of the proposed amendment.

(b) The proposed amendment shall be adopted upon receiving the affirmative votes of at least three-fourths (3/4) of the shareholders present at the meeting.

(c) Upon the adoption of an amendment to the articles of incorporation, articles of amendment shall be executed and filed in the following manner:

(1) The articles of amendment shall be prepared and signed in triplicate by the president and secretary of the credit union. The department may approve them in the manner provided in IC 28-12-5.

(2) The amendment, if approved by the department, shall be filed with the secretary of state. The secretary of state shall keep one (1) copy of the articles in his office and shall issue a certificate of amendment to the credit union. The secretary of state shall return the certificate of amendment with a copy of the articles of amendment to the credit union and file the other copy of the articles with the department. A credit union shall not exercise any power, right, or authority conferred by an amendment until a copy of the articles has been filed with the recorder of the county in which the credit union is located.

(Formerly: Acts 1961, c.182, s.7.) As amended by Acts 1977, P.L.294, SEC.5; P.L.14-1992, SEC.122; P.L.263-1995, SEC.5.

IC 28-7-1-8

Unauthorized use of name "credit union"; violations

Sec. 8. (a) The use of any name or title that contains the words "credit union", or that means "credit union" in any language, is unlawful unless the name is used by:

(1) a corporation authorized to use the words "credit union" under Indiana or United States law; or

(2) the Indiana Credit Union League, Inc., and its affiliates.

(b) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a credit union.

(c) A person, firm, limited liability company, or corporation that violates this section is subject to a penalty of five hundred dollars (\$500) per day for each day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(Formerly: Acts 1961, c.182, s.8.) As amended by Acts 1978, P.L.2, SEC.2820; P.L.52-1985, SEC.8; P.L.263-1995, SEC.6;

IC 28-7-1-9

Powers

Sec. 9. (a) A credit union has the following powers:

- (1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.
- (2) To make loans to officers, directors, or committee members under sections 17.1 and 17.2 of this chapter.
- (3) To invest in any of the following:
 - (A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.
 - (B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).
 - (C) Obligations of national mortgage associations issued under the authority of the National Housing Act.
 - (D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).
 - (E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).
 - (F) In savings and loan associations, other credit unions that are insured under section 31.5 of this chapter, and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.
 - (G) Corporate credit unions.
 - (H) Federal funds or similar types of daily funds transactions with other financial institutions.
 - (I) Shares or certificates of an open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C. 80a-4 through 15 U.S.C. 80a-64), if all of the following conditions are met:
 - (i) The fund's assets consist of and are limited to securities in which a credit union may invest directly.
 - (ii) The credit union has an equitable and undivided interest in the underlying assets of the fund.
 - (iii) The credit union is not liable for acts or obligations of the fund.

(iv) The credit union's investment in any one (1) fund does not exceed fifteen percent (15%) of the amount of the credit union's net worth.

(J) For a credit union that is well capitalized (as defined in Part 702 of the Rules and Regulations of the National Credit Union Administration, 12 CFR 702), investment securities, as may be defined by a statute or a policy or rule of the department and subject to the following:

(i) The department may prescribe, by policy or rule, limitations or restrictions on a credit union's investment in investment securities.

(ii) The total amount of any investment securities purchased or held by a credit union may never exceed at any given time ten percent (10%) of the capital and surplus of the credit union. However, the limitations imposed by this item do not apply to investments in the direct or indirect obligations of the United States or in the direct obligations of a United States territory or insular possession, or in the direct obligations of the state or any municipal corporation or taxing district in Indiana.

(iii) A credit union may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this item, a security is speculative or has speculative characteristics if at the time of purchase the security is in default, is rated below the first four (4) rating classes by a generally recognized security rating service, or is otherwise considered speculative by the director.

(iv) A credit union may purchase for its own account a security that is not rated by a generally recognized security rating service if the credit union at the time of purchase obtains financial information that is adequate to document the investment quality of the security and if the security is not otherwise considered speculative by the director.

(v) A credit union that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

(vi) Except as otherwise authorized by this title, a credit union may not purchase any share of stock of a corporation. If a credit union possesses stock or another equity investment as a result of a loan default, the credit union shall dispose of the investment within a reasonable period that does not exceed one (1) year or a longer period if approved by the department.

(vii) Subject to items (i) through (iv), a credit union may purchase yankee dollar deposits, eurodollar deposits, banker's acceptances, deposit notes, bank notes with original weighted average maturities of less than five (5)

years, and investments in obligations of, or issued by, any state or political subdivision (including any agency, corporation, or instrumentality of a state or political subdivision).

(K) Collateralized obligations that are eligible for purchase and sale by federal credit unions. However, a credit union may purchase for its own account and sell the obligations only to the extent that a federal credit union can purchase and sell those obligations.

(4) With the prior approval of the department, and subject to the limitations of this subsection, a credit union may organize, invest in, or loan money to a credit union service organization (as defined in Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712). A credit union may not loan or invest in a credit union service organization if the aggregate amount of all such loans or investments in a particular credit union service organization is greater than ten percent (10%) of the capital, surplus, and unimpaired shares of the credit union without the prior written approval of the department. A credit union may organize, invest in, or loan money to a credit union service organization described in this subdivision only if the following requirements are met:

(A) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if the credit union service organization is to be formed or is newly formed.

(B) The credit union service organization is structured and operated as a separate legal entity from the credit union.

(C) The credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the credit union's potential liability for the debts and liabilities of the credit union service organization to not more than the loss of money invested in or loaned to the credit union service organization by the credit union.

(D) The credit union service organization agrees in writing to prepare financial statements and provide the financial statements to the credit union at least quarterly, and to the department upon request.

(E) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the credit union, and to the department upon request. A wholly owned credit union service organization is not required to obtain a separate annual audit if the credit union service organization is included in the annual consolidated audit of the credit union that is the credit union service organization's parent.

(F) The credit union service organization operates in compliance with all applicable federal and state laws.

- (5) To deposit its funds into:
 - (A) depository institutions that are federally insured; or
 - (B) state chartered credit unions that are privately insured by an insurer approved by the department.
- (6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.
- (7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.
- (8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.
- (9) To charge the member's share account for the actual cost of a necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.
- (10) To transfer to an accounts payable account, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of at least two (2) years. The credit union shall not consider the payment of dividends on the transferred account.
- (11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department. A credit union may rent excess space at the credit union's main office or branch as a source of income.
- (12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.
- (13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.
- (14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:
 - (A) the coverage is placed with an insurance company licensed to do business in Indiana; and
 - (B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.
- (15) To sell and cash negotiable checks, travelers checks, and

money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of the purchasing credit union's capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a tax advantaged savings plan which qualifies or qualified for specific tax treatment under Section 223, 401(d), 408, 408A, or 530 of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(19) To issue shares or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(20) A credit union may exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

(21) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(22) To purchase assets of another credit union and to assume the liabilities of the selling credit union.

(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed twenty percent (20%) of the total assets of that credit union, excluding those public funds.

(24) To join the National Credit Union Administration Central

Liquidity Facility.

(25) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.1%) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(26) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

(27) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

(28) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

(b) A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this chapter or by rule, order, or declaratory ruling of the department.

(Formerly: Acts 1961, c.182, s.9; Acts 1969, c.133, s.2; Acts 1974, P.L.130, SEC.2; Acts 1975, P.L.44, SEC.6.) As amended by Acts 1977, P.L.294, SEC.6; Acts 1979, P.L.267, SEC.1; Acts 1980, P.L.178, SEC.1; Acts 1982, P.L.170, SEC.1; P.L.270-1983, SEC.3; P.L.52-1985, SEC.9; P.L.2-1987, SEC.43; P.L.19-1987, SEC.45; P.L.8-1991, SEC.30; P.L.14-1992, SEC.123; P.L.228-1993, SEC.2; P.L.263-1995, SEC.7; P.L.188-1997, SEC.10; P.L.192-1997, SEC.17; P.L.11-1998, SEC.16; P.L.62-1999, SEC.5; P.L.63-2001, SEC.15, P.L.81-2001, SEC.4 and P.L.134-2001, SEC.17; P.L.258-2003, SEC.10; P.L.73-2004, SEC.36; P.L.141-2005, SEC.13; P.L.213-2007, SEC.66; P.L.217-2007, SEC.64;

P.L.90-2008, SEC.41; P.L.35-2010, SEC.148; P.L.89-2011, SEC.47.

IC 28-7-1-9.1

Sale of life insurance policy or annuity contract; prohibitions

Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an insurance producer for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

- (1) is subject to the requirements of IC 27; and
- (2) must comply with the disclosure requirements of IC 27-1-38.

(b) A credit union or credit union service organization may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

As added by P.L.188-1997, SEC.11. Amended by P.L.63-2001, SEC.16, P.L.81-2001, SEC.5 and P.L.134-2001, SEC.18; P.L.130-2002, SEC.8; P.L.178-2003, SEC.93.

IC 28-7-1-9.2

Request to exercise rights and privileges granted to federal credit unions; appeal

Sec. 9.2. (a) As used in this section, "rights and privileges" means the power:

- (1) to:
 - (A) create;
 - (B) deliver;
 - (C) acquire; or
 - (D) sell;

a product, a service, or an investment that is available to or offered by; or

- (2) to engage in mergers, consolidations, reorganizations, or other activities or to exercise other powers authorized for;

federal credit unions domiciled in Indiana.

(b) A credit union that intends to exercise any rights and privileges that are:

- (1) granted to federal credit unions; but
- (2) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to federal credit unions that the credit union intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the credit union.

(c) The department shall promptly notify the requesting credit union of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the credit union may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department may deny the requested rights and privileges if the department finds that:

- (1) federal credit unions domiciled in Indiana do not possess the requested rights and privileges;
- (2) the exercise of the requested rights and privileges by the credit union would adversely affect the safety and soundness of the credit union;
- (3) the exercise of the requested rights and privileges by the credit union would result in an unacceptable curtailment of consumer protection; or
- (4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the credit union.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the credit union's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the credit union may exercise the requested rights and privileges only if the credit union receives prior written approval from the department. However:

- (1) the department must:
 - (A) approve or deny the requested rights and privileges; or
 - (B) convene a hearing;not later than sixty (60) days after the department receives the credit union's letter; and
- (2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a credit union in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a credit union receives approval to exercise the requested rights and privileges granted to federal credit unions domiciled in Indiana, the department shall determine by order whether all credit

unions may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all credit unions will not:

- (1) adversely affect their safety and soundness; or
- (2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a credit union under this section to exercise any rights and privileges that are granted to federal credit unions, the credit union may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the credit union is located. In an appeal under this section, the court shall determine the matter de novo.

As added by P.L.63-2001, SEC.17, P.L.81-2001, SEC.6 and P.L.134-2001, SEC.19. Amended by P.L.73-2004, SEC.37; P.L.213-2007, SEC.67; P.L.217-2007, SEC.65; P.L.35-2010, SEC.149.

IC 28-7-1-10

Membership; identification; qualified groups; membership cards

Sec. 10. (a) The membership of credit unions shall be clearly and specifically identified. The membership of a credit union shall be limited to one (1) or more qualified groups of persons, immediate family members of the persons in the qualified group or groups, and organizations of those persons. For purposes of this section, a qualified group consists of:

- (1) persons having a common bond of occupation, trade, or professional association;
- (2) members of a labor organization;
- (3) members of a church;
- (4) persons engaged in a common trade or profession within a well defined geographical location;
- (5) employees of the credit union;
- (6) persons who are members of a farm bureau cooperative, or other farm bureau organization, and who have subscribed to one (1) or more shares; or
- (7) persons who reside or are employed within a community.

(b) A credit union may expand its membership with an additional qualified group or groups upon prior approval of the department.

(c) Membership cards must be kept on file and maintained in the credit union's main office for inspection by examiners and must contain at least the following information:

- (1) Account number, name, address, date of birth, signature of member, and the date signed.
- (2) A statement that the member is eligible for membership in the credit union by reason of employment, membership, affiliation, association, or other relationship with the organization, institution, corporation, or entity included in the credit union's field of membership.
- (3) Date, signature, and title of person authorized to record approval by the board, membership officer, or executive

committee.

(Formerly: Acts 1961, c.182, s.10; Acts 1974, P.L.130, SEC.3.) As amended by Acts 1982, P.L.170, SEC.2; P.L.271-1983, SEC.1; P.L.52-1985, SEC.10; P.L.14-1992, SEC.124; P.L.263-1995, SEC.8; P.L.53-2002, SEC.2; P.L.35-2010, SEC.150.

IC 28-7-1-10.1

Illegal members; purging of accounts; loans not affected

Sec. 10.1. The department shall consider a person, a firm, a corporation, or an organization to be an illegal member if the person, firm, corporation, or organization:

- (1) became a member of a credit union; and
- (2) did not qualify under section 10(a) of this chapter or the articles of incorporation of the credit union.

The membership of any illegal member, as determined by the department, shall be terminated and all accounts shall be purged from the active share accounts of the credit union within the period specified in writing by the department. However, a loan agreement between a terminated member and the credit union is unaffected by the termination and, if a loan involving an illegal member is secured by shares, the share account, to the extent encumbered by the loan, remains valid until unencumbered.

As added by P.L.35-2010, SEC.151.

IC 28-7-1-10.5

Repealed

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

IC 28-7-1-10.6

Issuing shares in a revocable or irrevocable trust; conditions

Sec. 10.6. A credit union may issue shares in a revocable or irrevocable trust, subject to the following:

- (1) If shares are issued in a revocable trust, at least one (1) of the settlors must be a member of the credit union in the settlor's own right.
- (2) If shares are issued in an irrevocable trust, at least one (1):
 - (A) settlor; or
 - (B) beneficiary;must be a member of the credit union in the settlor's or the beneficiary's own right.
- (3) The name of each beneficiary must be listed for the trust, whether the trust is revocable or irrevocable.

As added by P.L.89-2011, SEC.48.

IC 28-7-1-11

Quarterly call report of credit union's condition; civil penalty for failure to report; information in report

Sec. 11. Each credit union shall make a call report of its condition to the department, at least quarterly on forms and in accordance with guidelines approved by the director. Reports in addition to the

regular reports may be required. A credit union that fails to comply with this section may be required by the department to pay a civil penalty of one hundred dollars (\$100) for each day of noncompliance. Money paid under this section as determined by the department shall be deposited into the financial institutions fund established by IC 28-11-2-9. Except as specified in IC 28-11-3-3 concerning individual depositors, any information contained in call reports made by credit unions to the department must be made available to any person upon request.

(Formerly: Acts 1961, c.182, s.11.) As amended by Acts 1982, P.L.170, SEC.3; P.L.33-1991, SEC.54; P.L.228-1993, SEC.3; P.L.263-1995, SEC.9; P.L.141-2005, SEC.14; P.L.89-2011, SEC.49.

IC 28-7-1-12

Examinations of credit unions and affiliates; recognition of CPA audit; examination of vendors

Sec. 12. (a) Every credit union and every affiliate of a credit union shall be subject to examination by the department. A credit union shall be examined by the department as often as the department shall deem necessary. The department shall at all times be given free access to all of the books, papers, securities, and other sources of information, including audit reports and audit working papers for any such credit union. The director, the members of the department, and the supervisor in charge of the division shall have the power to subpoena documents and examine witnesses under oath pertaining to the business of the credit union. The department may accept an audit by a certified public accountant and govern its examination procedures and examination fees accordingly. At the close of each examination, a conference shall be conducted to disclose to the board of directors the findings of the examination.

(b) If a credit union contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the credit union and be subject to the department's routine examination procedures, the person that provides the service to the credit union 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 credit union 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.

(Formerly: Acts 1961, c.182, s.12.) As amended by P.L.263-1995, SEC.10; P.L.35-2010, SEC.153.

IC 28-7-1-13

Repealed

(Repealed by P.L.263-1995, SEC.31.)

IC 28-7-1-14**Fiscal year; membership meetings; voting rights**

Sec. 14. A credit union fiscal year shall end at the close of business on the thirty-first day of December. Special meetings of the members of any credit union may be convened by order of the board of directors or the supervisory committee, or by a petition of at least ten per cent (10%) of the members. A member shall have one (1) vote. The members may decide on any matter concerning the credit union. The members may overrule the directors, and, by a three-fourths (3/4) vote of those present, may amend the bylaws if the notice of the meeting stated the proposed amendment.

(Formerly: Acts 1961, c.182, s.14.) As amended by P.L.263-1995, SEC.11.

IC 28-7-1-15**Selection of board of directors, supervisory committee, and credit committee; oath; term length; replacement of chief executive officer; qualification criteria**

Sec. 15. (a) At the annual meeting, the members shall elect a board of directors and a supervisory committee.

(b) The bylaws:

- (1) may provide for a credit committee; and
- (2) if a credit committee is provided for, must state whether the credit committee is to be elected by the members or appointed by the board of directors.

(c) The credit committee must consist of not fewer than three (3) nor more than seven (7) members. A director may not be a member of either the credit committee or the supervisory committee.

(d) Each member of the board and each member of the credit committee or the supervisory committee shall take an oath. The length of the term of a member of the board or of the credit committee or the supervisory committee must be set forth in the bylaws.

(e) If a credit union replaces the chief executive officer of the credit union, the credit union shall give the department written notice of the replacement not later than thirty (30) days after replacing a person as the chief executive officer.

(f) Each individual elected or appointed to serve as a director, supervisory committee member, or credit committee member of a credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the credit union, shall meet all of the following criteria:

- (1) The individual is a member of the credit union and in good standing according to reasonable criteria established by the credit union board.
- (2) The individual is acceptable as a bonding risk by a bonding company licensed to do business in this state.
- (3) The individual has not been removed as a director, officer, committee member, or employee of a financial institution by a

federal regulator, a state regulator, or a court with jurisdiction.

(4) The department has not removed the individual as a director, officer, committee member, or employee of a credit union, financial institution, or other legal entity under the department's enforcement powers under any law of this state.

(5) The individual has not been convicted of a crime involving dishonesty or breach of trust.

(6) The individual is not habitually negligent in paying the individual's financial obligations as determined by criteria reasonably established by the credit union board.

(7) The individual has not been convicted by a court with jurisdiction of a violation, or found in violation by a court with jurisdiction or the department, of any law of this state enforced or administered by the department.

(g) If an individual no longer meets one (1) or more of the requirements of subsection (f) while serving as a director, supervisory committee member, or credit committee member of a credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the credit union, the:

(1) individual immediately shall be removed from that office without further action of the members of the credit union board; and

(2) credit union shall appoint or elect a replacement to fill the vacancy in the manner described in the bylaws.

(Formerly: Acts 1961, c.182, s.15.) As amended by Acts 1977, P.L.294, SEC.7; P.L.270-1983, SEC.4; P.L.263-1995, SEC.12; P.L.35-2010, SEC.154.

IC 28-7-1-16

Board of directors; board officers; credit union officers; board meetings; executive committee; directors' duties; loan officers; delegation of duties; suspension or removal of officer; action by written consent

Sec. 16. (a) Not more than thirty (30) business days after the conclusion of the annual meeting, the board of directors shall elect from its own members:

(1) a chairperson;

(2) a vice chairperson or vice chairpersons;

(3) a secretary;

(4) a treasurer; and

(5) other officers determined necessary by the board of directors.

(b) The board may appoint officers of the credit union.

(c) The office of secretary and treasurer may be held by the same person. The board may appoint:

(1) an assistant secretary;

(2) an assistant treasurer; or

(3) both an assistant secretary and an assistant treasurer.

(d) The board of directors shall have the general management of

the affairs, funds, and records of the credit union and shall meet at least monthly, in person or by any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting in accordance with this subsection is considered to be present in person at the meeting. Minutes of every meeting of the board of directors or executive committee shall be kept and maintained.

(e) The board may appoint an executive committee to exercise authority delegated to it by the board. The board retains ultimate responsibility for authority delegated to an executive committee.

(f) It is the duty of the directors to do the following:

(1) To determine:

(A) the maximum number of shares which may be held by a member; and

(B) the maximum amount which may be loaned to a member.

(2) To amend the bylaws, provided that the qualifications for membership in the credit union are principally defined in the articles of incorporation.

(3) To fill vacancies on the board and the credit committee until the next election.

(4) To set the compensation of members of the board, credit committee, or supervisory committee.

(5) To establish and annually review written lending and investment policies and other policies necessary for the prudent operation of the credit union.

(6) To approve an annual operating budget for the credit union.

(g) The board may appoint loan officers. Each loan officer shall furnish to the credit committee or to the board a record of each loan approved or denied at its next meeting. A loan officer, including the treasurer or assistant treasurer, shall not have authority to disburse funds of the credit union for any loan which has been approved by the loan officer.

(h) A credit union board is responsible for the performance of all of the duties listed in this subsection. The board may delegate the performance of the duties to the chief executive officer, who may further delegate one (1) or more of the following duties:

(1) Approving, disapproving, or otherwise acting on applications for membership.

(2) Determining the interest rates on loans and on deposits.

(3) Hiring employees other than the chief executive officer and fixing the employees' compensation.

(4) Making and selling investments according to investment policies adopted by the board.

(5) Designating one (1) or more depositories for funds.

(6) Establishing procedures to implement policies of the credit union board.

(7) Establishing internal controls as necessary.

(8) Determining the amount of a dividend after providing for any required reserves and declaring the dividend.

(i) The board of directors by a majority vote may suspend or remove any officer from the officer's duties as an officer.

(j) Unless specifically prohibited by the bylaws, if this chapter requires or allows a credit union board to take an action at a meeting, the board may take that action without a meeting if a consent in writing setting forth the action taken is signed by all of the directors entitled to vote on the matter. A written consent under this subsection must contain one (1) or more written approvals, each of which sets forth the action taken and bears the signature of one (1) or more directors. The directors shall deliver the directors' signed approvals to the secretary, and the secretary shall file the approvals in the corporate records of the credit union. An action taken by written consent under this subsection is effective on the date that all the directors have approved the consent unless the consent specifies a different effective date. A consent signed by all the directors has the same effect as a unanimous vote. The credit union may represent that the action was approved by a unanimous vote in any document filed with the department under this act.

(Formerly: Acts 1961, c.182, s.16; Acts 1969, c.133, s.3; Acts 1974, P.L.130, SEC.4.) As amended by Acts 1977, P.L.294, SEC.8; P.L.270-1983, SEC.5; P.L.228-1993, SEC.4; P.L.263-1995, SEC.13; P.L.62-1999, SEC.6; P.L.141-2005, SEC.15; P.L.35-2010, SEC.155.

IC 28-7-1-16.5

Conflicts of interest; disqualification; directors; committee members

Sec. 16.5. (a) This section governs the participation of board members in board actions.

(b) Unless a matter involves setting dividends, loan rates, or fees for services or other general policy applicable to all members of the credit union, a director, a committee member, an officer, or an employee of a credit union shall not in any manner, directly or indirectly, participate in the deliberation or board action on any matter that affects the director's, committee member's, officer's, or employee's pecuniary interest or the pecuniary interest of an entity other than the credit union in which the director, committee member, officer, or employee is interested.

(c) If one (1) or more directors are disqualified from participating in a matter before the credit union board under subsection (b), the remaining qualified directors present at the meeting, if together with the disqualified director constitutes a quorum, may by majority vote exercise all the powers of the board with respect to the matter under consideration. If all of the directors are disqualified, the members of the credit union shall act on the matter.

(d) If one (1) or more committee members are disqualified from participating in a matter before the committee under subsection (b), the remaining qualified committee members, if together with the disqualified committee member constitutes a quorum, may by majority vote exercise all the powers of the committee with respect to the matter under consideration. If all the committee members are

disqualified, the credit union board shall act on the matter.
As added by P.L.35-2010, SEC.156.

IC 28-7-1-17

Loans to members; application; terms and conditions; loans secured by real estate; participation loans; indemnifying or second mortgage on real estate

Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. When making an application, a member shall state the security offered. Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, providing such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

(1) All loans shall be evidenced by notes signed by the borrowing member.

(2) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization.

(3) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (2). When the amount of a loan is at least two hundred fifty thousand dollars (\$250,000), the fair cash value of real estate security shall be determined by a written appraisal made by one (1) or more qualified state licensed or certified appraisers designated by the board of directors. The credit union loan folder for real estate mortgage loans shall include:

(A) the loan application;

(B) the mortgage instrument;

(C) the note;

(D) the disclosure statement;

(E) the documentation of property insurance;

(F) an appraisal on the real estate for which the loan is made; and

(G) the attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.

(4) Loans made upon security of real estate are subject to the following restrictions:

(A) Real estate loans in which no principal amortization is

required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.

(B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.

(C) Real estate loans on unimproved real estate may be made. The terms of the loan shall:

- (i) require substantially equal payments of interest and principal at successive intervals of one (1) year or less;
- (ii) mature within ten (10) years; and
- (iii) not exceed eighty-five percent (85%) of the fair cash value of the real estate used as security.

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (2).

(E) Real estate loans may be made for the construction of improvements to real property. Funds borrowed may be advanced as work on the improvements progresses. Repayment terms must comply with subdivision (2).

(5) Subject to the limitations of subdivision (3), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.

(6) As used in this subdivision, "originating lender" means the participating lender with which the member contracts. A credit union may participate with other state and federal depository financial institutions (as defined in IC 28-1-1-6) or credit union service organizations in making loans to credit union members and may sell a participating interest in any of its loans under written participation loan policies established by the board of directors. However, the credit union may not sell more than ninety percent (90%) of the principal of participating loans outstanding at the time of sale. A participating credit union that is not the originating lender may participate only in loans made to the credit union's own members or to members of another participating state or federal credit union. A master participation agreement must be properly executed. The agreement must include provisions for identifying, either

through documents incorporated by reference or directly in the agreement, the participation loan or loans before the sale of the loans.

(7) Notwithstanding subdivisions (1) through (6), a credit union may make any of the following:

(A) Any loan that may be made by a federal credit union.

However, IC 24-4.5 applies to any loan that is:

(i) made under this clause; and

(ii) within the scope of IC 24-4.5.

Any provision of federal law that is in conflict with IC 24-4.5 does not apply to a loan made under this clause.

(B) Subject to subdivision (3), any alternative mortgage loan (as defined in IC 28-15-11-2) that may be made by a savings association (as defined in IC 28-15-1-11) under IC 28-15-11. A loan made under this clause by a credit union is subject to the same terms, conditions, exceptions, and limitations that apply to an alternative mortgage loan made by a savings association under IC 28-15-11.

(8) A credit union may make a loan under either:

(A) subdivisions (2) through (6); or

(B) subdivision (7);

but not both. A credit union shall make an initial determination as to whether to make a loan under subdivisions (2) through (6) or under subdivision (7). If the credit union determines that a loan or category of loans is to be made under subdivision (7), the written loan policies of the credit union must include that determination. A credit union may not combine the terms and conditions that apply to a loan made under subdivisions (2) through (6) with the terms and conditions that apply to a loan made under subdivision (7) to make a loan not expressly described and authorized either under subdivisions (2) through (6) or under subdivision (7).

(c) Nothing in this section prevents any credit union from taking an indemnifying or second mortgage on real estate as additional security.

(Formerly: Acts 1961, c.182, s.17; Acts 1969, c.133, s.4; Acts 1974, P.L.130, SEC.5.) As amended by Acts 1977, P.L.294, SEC.9; Acts 1979, P.L.267, SEC.2; Acts 1980, P.L.176, SEC.9; Acts 1982, P.L.170, SEC.4; P.L.270-1983, SEC.6; P.L.166-1988, SEC.1; P.L.260-1989, SEC.1; P.L.14-1992, SEC.125; P.L.228-1993, SEC.5; P.L.263-1995, SEC.14; P.L.192-1997, SEC.18; P.L.11-1998, SEC.17; P.L.79-1998, SEC.80; P.L.62-1999, SEC.7; P.L.53-2002, SEC.3; P.L.141-2005, SEC.16; P.L.213-2007, SEC.68; P.L.217-2007, SEC.66; P.L.35-2010, SEC.157.

IC 28-7-1-17.1

Loans to directors and committee members; terms and conditions; lines of credit; application of federal regulation; delinquent loans

Sec. 17.1. (a) A credit union may make a loan to the credit union's individual directors and committee members under the following

terms and conditions:

(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.

(2) The loan may not be on terms more favorable than those extended to other borrowers.

(3) The borrower may not:

(A) take part in the consideration of; or

(B) vote on;

the borrower's loan application.

(4) Except as provided in subsection (b), a credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the greater of:

(A) five percent (5%) of the credit union's capital and surplus; or

(B) twenty-five thousand dollars (\$25,000);

unless the loan is first approved by the credit union's board of directors.

(5) A credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(6) The total amount of all loans made under this section may not exceed the credit union's capital and surplus. However, the limit set forth in this subdivision does not apply to either of the following:

(A) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(B) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(b) Approval by the board of directors under subsection (a)(4) is not required for an extension of credit made under a line of credit approved under subsection (a)(4) if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.

(c) The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

(d) If a loan made to or cosigned, endorsed, or guaranteed by a director or a member of the supervisory, credit, or other committee is more than three (3) months delinquent, the individual:

- (1) is automatically removed from the individual's position as director or committee member; and
- (2) is ineligible to serve as a director or committee member for two (2) years.

The director may waive the application of this subsection if the director determines that it is in the best interests of the credit union.
As added by P.L.141-2005, SEC.17. Amended by P.L.90-2008, SEC.42; P.L.35-2010, SEC.158.

IC 28-7-1-17.2

Loans to officers; terms and conditions; loans exempt from limits

Sec. 17.2. (a) A credit union may make a loan to the credit union's individual officers under the following terms and conditions:

- (1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.
- (2) The loan may not be on terms more favorable than those extended to other borrowers unless the loan is made in connection with a benefit or compensation plan that:
 - (A) is widely available to employees of the credit union; and
 - (B) does not give preference to any officers of the credit union over other employees of the credit union.
- (3) The loan must be promptly reported to the credit union's board of directors.
- (4) A loan to the officer, the officer's immediate family, or the officer's related interests, either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, for any purpose, may not exceed, at any given time, the greater of:
 - (A) two and one-half percent (2.5%) of the credit union's capital and unimpaired surplus; or
 - (B) twenty-five thousand dollars (\$25,000);but in no event more than one hundred thousand dollars (\$100,000).

(b) The limits set forth in subsection (a)(4) do not apply to any of the following:

- (1) An extension of credit made under a line of credit approved under this section if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.
- (2) A loan, in any amount, to finance the education of an officer's child.
- (3) A loan, in any amount, to finance or refinance the purchase, construction, maintenance, or improvement of a residence of an officer, if:
 - (A) the loan is secured by a first lien on the residence and the residence is owned, or will be owned after the loan is made, by the officer; and
 - (B) in the case of a refinancing, the loan includes only the amount used to repay the original loan, plus any closing costs and any additional amount used for any purpose

described in this subdivision.

(4) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(5) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(c) A credit union may not make a loan under this section to an officer, the officer's immediate family, or the officer's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the officer, the officer's immediate family, or the officer's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(d) The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

As added by P.L.90-2008, SEC.43.

IC 28-7-1-17.3

Quarterly report of outstanding indebtedness of officers, directors, and committee members; retention; contents

Sec. 17.3. At least quarterly, the president or manager shall prepare and deliver to the board of directors a report listing the outstanding indebtedness of all officers, directors, and committee members. A report prepared under this subsection must be retained at the credit union for three (3) years and shall not be filed with the department unless specifically requested. A report required by this section must include:

- (1) the amount of each indebtedness; and
- (2) a description of the terms and conditions of each loan, including:
 - (A) the interest rate;
 - (B) the original amount and date of the loan;
 - (C) the maturity date;
 - (D) payment terms;
 - (E) security, if any; and
 - (F) any unusual term or condition of a particular extension of credit.

As added by P.L.90-2008, SEC.44.

IC 28-7-1-17.5

Signature limits

Sec. 17.5. The credit committee or loan officer may approve a line of credit, which shall establish a signature limit. Advances in excess of the signature limit shall be permitted if security is pledged to guarantee that amount in excess of the signature limit. Advances may be granted to each member within the limits of such extension of credit. Where a line of credit has been approved, no additional loan application or statement of purpose is required, provided the aggregate unsecured obligation does not exceed the signature limit.

As added by Acts 1977, P.L.294, SEC.10. Amended by P.L.263-1995, SEC.15.

IC 28-7-1-18

Duties of supervisory committee; professional outside audit

Sec. 18. (a) The supervisory committee shall cause the share and loan accounts of the members to be verified with the records of the treasurer at least each biennium.

(b) The supervisory committee shall supervise the acts of the board of directors, credit committee, and officers.

(c) By a majority vote, the supervisory committee may call a meeting of the shareholders to consider any violation of this chapter, or of the bylaws, or any practice of the credit union which, in the opinion of the committee is unsafe and unauthorized.

(d) The supervisory committee shall fill vacancies in its own number until the next annual meeting of the members.

(e) At the close of the audit period, the supervisory committee shall make or cause to be made a thorough audit of the credit union for each audit period and shall make a full report to the directors. The audit shall be made at any time during the one hundred twenty (120) days following the close of the audit period. Tapes, work papers, schedules, and evidence of verification of accounts shall be retained until the next examination by the department. A summary of the report shall be read at the annual meeting and shall be filed and preserved with the records of the credit union.

(f) A credit union with assets of at least five million dollars (\$5,000,000) shall have an annual audit performed by an outside professional accounting firm. The department may require a professional outside audit to be performed upon any credit union when the department questions the safety and soundness of the credit union.

(g) Minutes of every meeting of the supervisory committee shall be kept and maintained.

(Formerly: Acts 1961, c.182, s.18.) As amended by Acts 1979, P.L.267, SEC.3; P.L.14-1992, SEC.126; P.L.228-1993, SEC.6; P.L.263-1995, SEC.16; P.L.192-1997, SEC.19; P.L.11-1998, SEC.18; P.L.35-2010, SEC.159.

IC 28-7-1-19

Capital; lien on shares; transfer of shares; use of secondary capital by federal credit unions

Sec. 19. The capital of a credit union shall consist of the payments on shares which have been made to it by members. A credit union may attach a lien on the shares of any member with outstanding obligations to the credit union. A credit union may, upon the resignation of a member, cancel the shares of such member, and apply the withdrawal value of such shares towards the liquidation of the member's obligations. Fully paid up shares of a credit union may be transferred to any qualified member upon such terms as the bylaws provide. If a federal credit union is authorized by the federal

regulatory authority with jurisdiction or by federal law to use one (1) or more forms of secondary capital, the department may by rule, order, or declaratory ruling allow a credit union to use one (1) or more forms of secondary capital. The rule, order, or declaratory ruling must include disclosure requirements concerning the conditions for return of the secondary capital and the liquidation priority of the secondary capital.

(Formerly: Acts 1961, c.182, s.19; Acts 1969, c.133, s.5.) As amended by P.L.263-1995, SEC.17; P.L.35-2010, SEC.160.

IC 28-7-1-20

Repealed

(Repealed by Acts 1976, P.L.123, SEC.3.)

IC 28-7-1-20.1

Issuance of shares; joint tenancy; deposits, investments, and withdrawals by minors

Sec. 20.1. (a) Shares may be issued as the bylaws provide. The provisions of IC 28-1-20-6 apply to loans to any borrower and shall inure to the benefit of the credit union. Shares may be issued in a joint tenancy with right of survivorship, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless the tenant is a member.

(b) A credit union may issue shares to and receive deposits from a minor. The minor may withdraw the deposits or shares and any dividends or interest on the deposits or shares. A deposit, investment in a share, or withdrawal under this subsection by a minor is valid and enforceable. The minor is considered an adult with respect to the deposit, investment, or withdrawal.

As added by Acts 1977, P.L.294, SEC.11. Amended by P.L.263-1995, SEC.18; P.L.35-2010, SEC.161.

IC 28-7-1-21

Repealed

(Repealed by Acts 1971, P.L.366, SEC.10.)

IC 28-7-1-22

Authority to borrow; limits; authority to receive public deposits and pledge securities

Sec. 22. (a) A credit union may borrow from any source. The total borrowing of a credit union may not at any time exceed fifty per cent (50%) of the unimpaired shares capital and surplus of the credit union.

(b) A credit union may receive deposits of state and federal public funds, including the right to pledge securities or other assets for the repayment of the deposits if the pledge is permitted by applicable law or regulation.

(Formerly: Acts 1961, c.182, s.22.) As amended by P.L.263-1995, SEC.19; P.L.90-2008, SEC.45; P.L.35-2010, SEC.162.

IC 28-7-1-23

Loans to members; purposes; repayment plans; direct deposit

Sec. 23. (a) A credit union may make loans to its members for such purposes and upon such security as the bylaws provide, and as the credit committee or loan officer shall approve.

(b) A member may receive a loan for crops in installments.

(c) A borrower may repay the whole loan or any part of a loan on any day on which the credit union is open.

(d) A credit union may offer payroll deduction for:

(1) the repayment of loans; and

(2) deposits into the accounts of members.

(e) A credit union may offer direct deposit.

(Formerly: Acts 1961, c.182, s.23; Acts 1969, c.133, s.6; Acts 1974, P.L.130, SEC.6.) As amended by P.L.270-1983, SEC.7; P.L.263-1995, SEC.20.

IC 28-7-1-24

Entrance charges as reserve income; regular reserve requirements; undivided profits account; financial statements; allowances for loan and investment losses

Sec. 24. (a) All entrance charges shall, after payment of the organization expenses, be known as reserve income, and shall be added to the regular reserve of the credit union. At the close of the dividend period, there shall be set apart to the regular reserve ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percent (7 1/2%) of the total of outstanding loans, then five percent (5%) of gross income until the regular reserve shall equal ten percent (10%) of the total of outstanding loans. Whenever the regular reserve falls below ten percent (10%) or seven and one-half percent (7 1/2%) of the total of outstanding loans, it shall be replenished by regular contributions to maintain the reserve goals of seven and one-half percent (7 1/2%) or ten percent (10%). The regular reserve shall be held to meet contingencies and shall not be distributed to the members except upon dissolution of the credit union.

(b) A credit union may have an undivided profits account. The undivided profits account may be transferred to the regular reserve.

(c) The department may, by rule, revise the formula prescribed by this section. A revised formula must be prudent and must reasonably be expected to protect the credit unions.

(d) Financial statements of credit unions must provide for full and fair disclosure of all assets, liabilities, and members' equity, including such allowance for loan loss accounts necessary to present fairly the financial position, and all income and expenses necessary to present fairly the results of operation for the period concerned.

(e) The maintenance of an allowance for loan losses and investment or other losses does not exempt a credit union from the requirement set forth in subsection (a) or regulation CU-2. The totals of the regular reserve, the allowance for loan losses account, and the allowance for investment losses shall be combined for determining

the percentage of gross income to be transferred to the regular reserve.

(f) Loan losses of a credit union must be charged against the allowance for loan loss. Adjustments to the allowance for loan losses shall be made before the distribution of any dividend so that the allowance for loan loss represents the value of loans and anticipated losses resulting from:

- (1) uncollectible loans, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;
- (2) assets acquired in liquidation of loans; and
- (3) loans purchased from other credit unions.

(g) Adjustments to the allowance for loan losses must be recorded in the expense account "provision for loan losses".

(h) If the balance of the allowance for loan losses is considered to be in excess of the amount needed to meet the full and fair disclosure requirements, the excess amount must be transferred to the regular reserve account or deducted from the provision for loan loss expense account.

(Formerly: Acts 1961, c.182, s.24; Acts 1969, c.133, s.7; Acts 1974, P.L.130, SEC.7.) As amended by Acts 1977, P.L.294, SEC.12; P.L.164-1988, SEC.13; P.L.8-1991, SEC.31; P.L.1-1992, SEC.156; P.L.14-1992, SEC.127; P.L.228-1993, SEC.7; P.L.263-1995, SEC.21; P.L.192-1997, SEC.20; P.L.35-2010, SEC.163.

IC 28-7-1-24.1

Alternative regular reserve formula for certain credit unions

Sec. 24.1. (a) Notwithstanding section 24(a) of this chapter as it applies to the regular reserve formula, a credit union that:

- (1) has only share accounts that are insured by an agency of the federal government, the state, or an insuring entity that is approved by the department to insure credit union shares;
- (2) has assets of five hundred thousand dollars (\$500,000) or more; and
- (3) has been in operation for more than four (4) years;

may maintain reserves in accordance with this section.

(b) For purposes of this section, "risk assets" means all assets except the following:

- (1) Cash on hand.
- (2) Deposits or shares in federally or state insured banks, savings and loan associations, and credit unions.
- (3) Investments that are direct or indirect obligations of the United States government or its agencies.
- (4) Loans to other credit unions.
- (5) Student loans insured under the Higher Education Act (20 U.S.C. 1071 et seq.) or similar state insurance programs.
- (6) Loans insured under the National Housing Act (12 U.S.C. 1703) by the Federal Housing Authority.
- (7) Credit union mutual funds authorized by the Indiana Credit Union Act under IC 28-7-1-9(3)(I).
- (8) Prepaid expenses.

- (9) Accrued interest on nonrisk investments.
- (10) Furniture and equipment.
- (11) Land and buildings.
- (12) Loans fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of loan outstanding.
- (13) Loans that are purchased from liquidating credit unions and guaranteed by an insuring agency of the federal government, the state, or an agency approved by the department to insure credit union share accounts.

(c) At the end of each accounting period, the gross income shall be determined. Based on the amount of gross income, ten percent (10%) of the gross income shall be set aside, as a regular reserve, until the reserve shall equal four percent (4%) of total risk assets, and then five percent (5%) of the gross income shall be set aside, until the reserve equals six percent (6%) of total risk assets.

(d) Except for the method of calculating the regular reserve formula, all other provisions of section 24 of this chapter pertaining to entrance fees and charges, requirements of a special reserve for delinquent loans, and waiver of such special reserve, apply to credit unions that have reserves that are calculated under this section.

As added by P.L.35-2010, SEC.164.

IC 28-7-1-25

Dividends

Sec. 25. Dividends may be declared by the board of directors, after making provision for the required reserves. The board of directors may declare separate dividend periods and rates for each type of share account.

(Formerly: Acts 1961, c.182, s.25; Acts 1969, c.133, s.8; Acts 1974, P.L.130, SEC.8.) As amended by Acts 1979, P.L.267, SEC.4; P.L.263-1995, SEC.22.

IC 28-7-1-26

Repealed

(Repealed by P.L.35-2010, SEC.209.)

IC 28-7-1-26.3

Termination of membership; termination or suspension of services to member; withdrawal from membership; notice

Sec. 26.3. (a) A credit union board may terminate the membership of, or terminate some or all services to, a member who does any of the following:

- (1) Causes a loss to the credit union.
- (2) Commits fraud or another misdeed against the credit union or against a person on the premises of the credit union.

(b) Pending action by the credit union board at the credit union board's next regularly scheduled meeting, a credit union may immediately suspend any credit union services to a member who does any of the following:

- (1) Causes a loss to the credit union.
- (2) Commits fraud or another misdeed against:
 - (A) the credit union; or
 - (B) a person on the premises of the credit union.

(c) A member may withdraw from a credit union at any time. However, the credit union may require a notice of withdrawal from the withdrawing member as a condition of withdrawal.

(d) Unless the withdrawal of a member occurs on a maturity date or not later than seven (7) days after a maturity date, a credit union may require that a withdrawing member give sixty (60) days written notice of the member's intention to withdraw shares. A credit union may waive an applicable notice period for a specific member or account in writing.

(e) After a termination or withdrawal under this section, the former member has no rights in the credit union. However, the termination or withdrawal does not release the former member from any remaining liability to the credit union.

As added by P.L.35-2010, SEC.165.

IC 28-7-1-26.5

Refusal to make payment from account

Sec. 26.5. (a) A credit union may refuse to make a payment from an account to a person claiming an interest in the account if the credit union:

- (1) is uncertain under the agreement governing the account of who is entitled to receive the payment; or
- (2) has actual knowledge of a dispute between any account owners, beneficiaries with present vested rights in the account, or other persons concerning ownership of the money in the account, the proposed withdrawal, or any previous withdrawals from the account.

(b) If a credit union refuses to make a payment under subsection (a), the credit union:

- (1) shall notify, in writing, the account owners, beneficiaries with present vested rights in the account, and other persons claiming an interest in the account of the basis for the credit union's refusal; and
- (2) may refuse to make the payment until all interested parties consent in writing to the requested payment or a court with jurisdiction orders the credit union to make the payment.

(c) The credit union is not liable in damages as a result of an action taken under this section.

As added by P.L.35-2010, SEC.166.

IC 28-7-1-27

Repealed

(Repealed by Acts 1977, P.L.294, SEC.14.)

IC 28-7-1-27.1

Dissolution

Sec. 27.1. A credit union may liquidate its affairs and dissolve in the following manner:

- (1) The board of directors of a credit union may vote to submit the question of dissolution to the shareholders.
- (2) Upon the decision of the board of directors under subdivision (1), payments on shares, withdrawal of shares, and the granting of loans shall be immediately suspended, pending a vote by the shareholders on the question whether to dissolve.
- (3) The chairperson of the credit union shall, within ten (10) days after the decision of the board under subdivision (1), notify the department in writing of the reasons for the proposed dissolution. The notice must include a certified statement of condition of the credit union.
- (4) Upon receiving the notice of dissolution, the department shall conduct an examination of the credit union.
- (5) At either an annual meeting or a special meeting, the question of dissolution shall be approved or disapproved by the shareholders. If approved, such approval shall be evidenced by the written consent of no fewer than two-thirds (2/3) of the shareholders. Upon approval by the shareholders, payments on shares, withdrawal of shares, and granting of loans shall cease. If two-thirds (2/3) of the vote cannot be obtained, the director may permit the voluntary dissolution of the credit union to become effective without the affirmative vote of its membership if the credit union field of membership has ceased or will cease to exist.
- (6) If the department finds that the credit union is solvent or that it has sufficient assets with which to pay its shareholders and all liabilities, it may approve the dissolution of the credit union and shall notify the credit union in writing.
- (7) Upon receipt by the credit union of notice that the resolution for dissolution has been approved by the department, each member and creditor shall be notified by the credit union in writing that such credit union is in the process of dissolution. Notification to members shall include a request that such members verify, by passbook or in writing, shareholdings in or loan obligations to the credit union. Notification to creditors shall include a request that such creditors present claims to the credit union within ninety (90) days.
- (8) The credit union shall be responsible for conserving the assets of the credit union, expediting the liquidation, discharging all of the debts and liabilities of the credit union, and equitably distributing the assets to the shareholders at the completion of the liquidation. The board shall ensure that all persons handling or having access to the funds, books, or records of the credit union are adequately covered by a surety bond to the satisfaction of the department.
- (9) The board of directors shall forward to the department a certified statement of condition of the credit union within ten (10) days after the close of each month.

(10) Within thirty (30) days after the date of final distribution of the assets of the credit union to the shareholders, the board of directors shall furnish to the department:

(A) a summary showing how the credit union debts and liabilities were paid;

(B) an itemized list of all credit union assets and property distributed to the shareholders, the name of each shareholder, the number and amount of shares held by each at the time of distribution of assets, the amount distributed to each, and the date of distribution; and

(C) the name and address of the custodian appointed by the board of directors, who shall preserve the records of the credit union for five (5) years from the date of final distribution of the assets.

(11) The department shall file with the secretary of state triplicate copies of the resolution for dissolution bearing the approval of the department as prescribed in IC 28-12-5. The secretary of state shall endorse each copy of the resolution, file one (1) copy of the resolution, and issue and return a certificate of dissolution to the credit union together with two (2) copies of the resolution for dissolution.

(12) The credit union shall file with the county recorder of the county in which the articles of incorporation were recorded one (1) copy of the resolution for dissolution bearing the endorsement of the secretary of state. After this filing, the credit union shall be dissolved and its existence shall cease.

(13) The credit union shall continue in its corporate capacity for three (3) years from the date of the resolution adopted by the board as provided in subdivision (1), for the purpose of:

(A) discharging its debts and obligations;

(B) collecting and distributing its assets; and

(C) doing all other acts required in order to terminate its business;

but for no other purpose.

As added by Acts 1977, P.L.294, SEC.13. Amended by P.L.14-1992, SEC.128; P.L.263-1995, SEC.24.

IC 28-7-1-28

Change of place of business

Sec. 28. A credit union may, with department approval, change its place of business. The department may deny the change of location if the new situs is undesirable or would detrimentally affect the operation of the credit union.

(Formerly: Acts 1961, c.182, s.28.) As amended by P.L.263-1995, SEC.25.

IC 28-7-1-29

Conversion from state to federal charter; procedure

Sec. 29. Any credit union organized or reorganized under the laws of Indiana or the United States may convert from a state charter to a

federal charter or from a federal charter to a state charter as follows:

(1) A federally chartered credit union may apply for a state charter by observing the following procedures:

(A) The board of directors shall pass a resolution that the federal charter be canceled when and if a state charter is applied for and issued to the credit union by the department of financial institutions.

(B) Written notice of the resolution shall be sent to each member at least thirty (30) days prior to the meeting in which the resolution is to be submitted to the members.

(C) An affirmative majority vote of the members present at the meeting shall be required to effect the conversion from federal to state charter, provided a quorum is present at the meeting.

(D) Certified copies of the minutes of the proceedings of the meeting of the members shall be filed with both the National Credit Union Administration and the department.

(E) Within thirty (30) days after receiving the certified copies of the minutes, an examination of the financial condition of the credit union shall be made by the department. The cost of the examination shall be paid by the credit union.

(F) Within thirty (30) days after the completion of the examination, the department shall report to the credit union the results of its examination and supply the National Credit Union Administration with a copy of the examination report.

(G) If it receives a satisfactory report of the examination, the credit union must within thirty (30) days file its amended articles of incorporation and amended bylaws pursuant to this chapter with the secretary of state, and copies of the amended articles and amended bylaws must be directed to the department and the National Credit Union Administration.

(H) Officers, directors, and committee members shall retain their respective offices for the unexpired terms existing prior to the conversion, subject to the provisions of this chapter.

(I) The newly chartered credit union shall have all of the rights and privileges in and to all of the assets of the prior existing credit union and shall assume and be responsible for all of the obligations imposed while operating under the federal charter.

(2) A state chartered credit union may be converted into a federally chartered credit union by complying with the following requirements:

(A) The board must adopt and approve by a majority of the directors a resolution of conversion. The proposition for such conversion shall first be approved by a majority of the directors of the state credit union.

(B) The board must notify the membership either in person or by mail of the membership meeting at which the

resolution of conversion will be acted upon. The notice must be mailed not more than thirty (30) and not less than seven (7) days before the meeting.

(C) The resolution must be approved by a majority of those voting, either in person or by absentee ballot, at the membership meeting called by the board.

(D) The results of the vote, verified by the affidavits of the chairperson or vice chairperson and the secretary, shall be filed with the department within ten (10) days after the vote is taken.

(E) If the proposition for conversion is approved, the credit union shall within ninety (90) days take the action necessary to make it a federal credit union. Within ten (10) days after receipt of the federal charter, the credit union shall file with the department a copy of the charter. Upon such filing, and after the credit union has notified the office of the secretary of state that the conversion is concluded, the credit union shall cease to be a state credit union.

(Formerly: Acts 1961, c.182, s.29.) As amended by P.L.263-1985, SEC.180; P.L.14-1992, SEC.129; P.L.263-1995, SEC.26.

IC 28-7-1-30

Repealed

(Repealed by P.L.263-1995, SEC.31.)

IC 28-7-1-31

Fidelity coverage for directors, officers, and employees; blanket fidelity bond or separate reserve fund required

Sec. 31. Every credit union shall make provisions for adequate fidelity coverage for directors, officers, and employees of the credit union. The amount and form of fidelity coverage must be approved by the board of directors of the credit union. Coverage may be provided:

(1) in the form of a blanket fidelity bond issued by a corporate surety authorized to transact business in Indiana; or

(2) through the establishment of a separate reserve fund within the credit union for that purpose.

(Formerly: Acts 1961, c.182, s.31.) As amended by P.L.276-1987, SEC.4; P.L.263-1995, SEC.27; P.L.35-2010, SEC.167.

IC 28-7-1-31.3

Credit union officials; discharge of duties; indemnification

Sec. 31.3. (a) As used in this section, "official" means an individual who is or who was a director, committee member, officer, or employee of a credit union.

(b) An official of a credit union shall discharge the duties of the official's position in good faith and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the official's duties, an official may rely upon:

- (1) the opinion of legal counsel for the credit union;
- (2) the report of an independent appraiser selected with reasonable care by:

- (A) the board; or

- (B) an officer of the credit union; or

- (3) financial statements of the credit union:

- (A) represented to the official to be correct by the:

- (i) chief executive officer; or

- (ii) officer of the credit union having charge of the credit union's records; or

- (B) stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the credit union.

(c) As used in this section, "credit union" includes all other credit unions that become related to a credit union by a consolidation or merger and the resulting or continuing credit union.

(d) A credit union may indemnify a director, a committee member, an officer, an employee, or an agent to the extent and in the same manner that a corporation may indemnify a director, committee member, officer, employee, or agent under IC 28-13-13-2 through IC 28-13-13-13.

As added by P.L.35-2010, SEC.168.

IC 28-7-1-31.5

Insurance; examinations

Sec. 31.5. (a) Before transacting business in Indiana, a credit union shall insure its shares and other deposits with the National Credit Union Share Insurance Fund or a similar insurance company approved by the department.

(b) The department may examine any organization that insures the shares of a credit union that is subject to this chapter. The reasonable costs of an examination conducted under this subsection may be charged to the organization that is examined.

As added by P.L.270-1983, SEC.8. Amended by P.L.263-1995, SEC.28.

IC 28-7-1-32

Repealed

(Repealed by P.L.347-1989(ss), SEC.24.)

IC 28-7-1-33

Merger procedure

Sec. 33. (a) Any two (2) or more credit unions may, with the approval of the department, merge. This section authorizes the merger of a credit union organized under this chapter with a credit union organized under any other law.

(b) The board of directors of each credit union participating in the merger must by majority vote approve a joint agreement of merger.

(c) After the resolutions approving a joint agreement of merger have been adopted by the board of directors of each credit union, the

credit unions shall submit the resolutions and joint agreement to the department for approval. The department may, in the department's discretion, approve or disapprove the resolution and joint agreement. In deciding whether to approve or disapprove the resolution and joint agreement under this section, the department shall consider the following factors:

- (1) Whether the credit unions subject to the proposed transaction are operated in a safe, sound, and prudent manner.
- (2) Whether the financial condition of any credit union subject to the proposed transaction will jeopardize the financial stability of any other credit unions subject to the proposed transaction.
- (3) Whether the proposed transaction will result in a credit union that has inadequate capital, unsatisfactory management, or poor earnings prospects.
- (4) Whether the proposed transaction, in the department's judgment and considering the available information under the prevailing circumstances, will result in an institution that is more favorable to the stakeholders than if the entities were to remain separate.
- (5) Whether the management or other principals of the credit union that will result from the proposed transaction are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting credit union.
- (6) Whether the credit unions subject to the proposed transaction furnish all the information the department requires in reaching the department's decision.

(d) If the joint agreement is approved by the department, any credit union whose existence will terminate as a result of the merger shall submit the joint agreement to a vote of its shareholders at the meeting directed by the resolution of the board of directors. A majority of the shareholders present at the meeting may approve the joint agreement. However, the department may permit the merger to become effective without the affirmative vote of the membership of a credit union if that credit union is in danger of insolvency or if the qualified group or groups associated with the credit union either have ceased or will soon cease to exist.

(e) After approval of the joint agreement by the shareholders of the merging credit unions, each credit union shall execute in triplicate articles of merger, on forms furnished by the department, which shall set forth the following:

- (1) The time and place of the meeting of the board of directors at which the plan was approved.
- (2) The vote by which the plan was approved by the board.
- (3) A copy of the resolution or other action by which the plan was agreed upon.
- (4) The time and place of the meeting of the members at which the plan was approved.
- (5) The vote by which the plan was approved by the members.
- (f) The articles, joint agreement, and resolutions shall be delivered

to the department for certification, which shall be evidenced in the manner prescribed in IC 28-12-5, and shall be presented to the secretary of state for recording. The secretary of state shall file one (1) copy of the articles of merger and shall issue a certificate of merger and two (2) copies of the articles of merger to the surviving credit union. The date on which the secretary of state issues the certificate of merger is the effective date of the merger.

(g) The articles of merger shall be filed with the county recorder of the county in which the principal office of the surviving credit union is located.

(Formerly: Acts 1974, P.L.130, SEC.9.) As amended by Acts 1979, P.L.267, SEC.5; Acts 1982, P.L.170, SEC.5; P.L.270-1983, SEC.9; P.L.52-1985, SEC.11; P.L.14-1992, SEC.130; P.L.263-1995, SEC.29; P.L.35-2010, SEC.169.

IC 28-7-1-34

Credit unions organized in other states

Sec. 34. (a) A credit union organized under the laws of another state may establish a branch office in Indiana if:

- (1) the credit union files an application with the department;
- (2) the branch office is necessary to serve members within the field of membership of the credit union;
- (3) the field of membership of the credit union is consistent with the laws of Indiana;
- (4) the law of the state in which the credit union was organized provides for the establishment of a branch office in that state by an Indiana credit union; and
- (5) the department approves the application of the credit union.

(b) If the credit union that has established a branch office in Indiana is subsequently granted an expansion of its field of membership by its chartering state, the expanded field of membership must be approved by the department before the expanded field of membership can be served in Indiana. If an out-of-state credit union desires to establish a branch office in Indiana and that credit union's field of membership is an incorporated entity, the incorporated entity may not be admitted to do business in Indiana as a foreign corporation by the secretary of state's office until the department has approved the entry of the credit union to establish a branch office.

(c) The department shall provide to a credit union desiring to establish a branch office in Indiana an application, which must provide at least the following information:

- (1) The credit union's financial condition.
- (2) The credit union's field of membership and the number of members to be served in Indiana.
- (3) The proposed location of any branch offices.
- (4) A letter of approval from the supervisory agency in the state in which the credit union's principal office is located, including a statement indicating whether such supervisory agency conducts periodic examinations of the credit union.

(5) A statement that the credit union, with respect to its operation in this state, will comply with all applicable state and federal laws, rules, and regulations, as determined by the director.

(d) The department shall approve or deny the application within one hundred twenty (120) days. The department may deny the application or suspend or revoke an application previously approved if it finds any of the following:

- (1) That the credit union is insolvent or in imminent danger of insolvency.
- (2) That the credit union does not have the approval of its supervisory agency.
- (3) That the credit union fails to meet the requirements of subsection (e).
- (4) A failure to comply with any written agreement or final order of the department or chartering supervisory agency that has regulatory authority over the credit union.
- (5) That the credit union has been serving an expanded field of membership in Indiana before obtaining the approval of the department for the expansion in the field of membership.

(e) Any out-of-state credit union that has been approved to establish branch offices in this state shall, in addition to such other provisions of law applicable to credit unions, comply with the following:

- (1) Designate a resident agent for the service of process in this state.
- (2) Submit a copy of all reports required by its supervisory agency, unless otherwise required by the department to submit reports prescribed by the department.
- (3) Submit a copy of every:
 - (A) regulatory examination report; and
 - (B) insurance examination report;to the department.
- (4) Conduct its lending activities in accordance with Indiana law.

(f) The department may examine such a branch office if it has reason to believe that the branch office is not operating in compliance with laws, rules, or regulations. The reasonable cost of any such examination authorized by this subsection shall be paid by the credit union.

(g) For purposes of this section, IC 28-1-2-30 applies to information obtained by or provided to the department concerning branch offices established under this section.

(h) The department may enter into cooperative, coordinating, and information sharing agreements with an organization listed in IC 28-11-3-3 with respect to the periodic examination or other supervision of a branch:

- (1) in Indiana of an out-of-state credit union; or
- (2) of an Indiana state credit union in a host state;

and the department may accept the organization's reports of

examination and reports of investigation instead of conducting the department's own examinations or investigations.

(i) The department may enter into agreements with a financial institution supervisory agency that has concurrent jurisdiction over an Indiana state credit union or an out-of-state credit union operating a branch in Indiana under this chapter to:

- (1) engage the services of the agency's examiners at a reasonable rate of compensation; or
- (2) provide the services of the department's examiners to the agency at a reasonable rate of compensation.

An agreement under this subsection is subject to IC 36-1-7.

(j) The department may enter into joint examinations or joint enforcement actions with other credit union supervisory agencies having concurrent jurisdiction over a branch established and maintained in Indiana by an out-of-state credit union or a branch established and maintained by an Indiana state credit union in a host state. The department may take action independently if the department considers the action to be necessary or appropriate to carry out its responsibilities under this chapter or to ensure compliance with Indiana law.

(k) An out-of-state credit union that maintains at least one (1) branch in Indiana is subject to IC 28-11-3-5. Fees may be shared with other financial institution supervisory agencies or an organization affiliated with or representing at least one (1) credit union supervisory agency under agreements between those parties and the department.

As added by P.L.271-1983, SEC.2. Amended by P.L.166-1988, SEC.2; P.L.263-1995, SEC.30; P.L.192-1997, SEC.21; P.L.11-1998, SEC.19; P.L.213-2007, SEC.69; P.L.217-2007, SEC.67.

IC 28-7-1-35

Effect of amendments by Acts 1974, P.L.130

Sec. 35. (a) This section applies to a credit union organized under Acts 1933, c.40, s.296 through s.323.

(b) The amendments to this chapter made by Acts 1974, P.L.130 do not affect a credit union's rights existing on June 11, 1974.

As added by P.L.1-1989, SEC.58.

IC 28-7-1-36

ATM ownership

Sec. 36. An automated teller machine (ATM) may be owned or operated individually by any credit union or jointly on a cost sharing or fee basis.

As added by P.L.192-1997, SEC.22.

IC 28-7-1-37

Withdrawal of deposits

Sec. 37. All members, regardless of age, may become depositors in a credit union and shall be subject to the same duties and liabilities respecting their deposits. Whenever a deposit is accepted by a credit

union in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by any of the following methods:

(1) Check or other instrument in writing. The check or other instrument in writing constitutes a receipt or acquittance if it is signed by the depositor, and constitutes a valid release and discharge to the credit union for all payments so made.

(2) Electronic means through:

- (A) preauthorized direct withdrawal;
- (B) an automated teller machine;
- (C) a debit card;
- (D) a transfer by telephone;
- (E) a network, including the Internet; or
- (F) any:
 - (i) electronic terminal;
 - (ii) computer;
 - (iii) magnetic tape; or
 - (iv) other electronic means.

However, this section may not be construed to affect the rights, liabilities, or responsibilities of participants in an electronic fund transfer under the federal Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.).

As added by P.L.81-2001, SEC.7.

IC 28-7-1-38

Requirement to provide property tax information in certain transactions

Sec. 38. With respect to a residential real property financing or refinancing, a credit union shall comply with IC 6-1.1-12-43.

As added by P.L.64-2004, SEC.32.

IC 28-7-1-39

Limits on loans to members; exceptions; commission of Class A misdemeanor by accepting compensation for procuring loan; deadline for compliance

Sec. 39. (a) As used in this section, "loans and extensions of credit" includes all direct or indirect advances of funds made to a member on the basis of:

- (1) an obligation of the member to repay the funds; or
- (2) a pledge of specific property by or on behalf of the member and from which the funds advanced are repayable.

The term includes any contractual liability of a credit union to advance funds to or on behalf of a member, to the extent specified by the department.

(b) As used in this section, "member" includes an individual, a sole proprietorship, a partnership, a joint venture, an association, a trust, an estate, a business trust, a limited liability company, a corporation, a sovereign government, or an agency, instrumentality, or political subdivision of a sovereign government, or any similar entity or organization.

(c) Except as provided in subsection (e), the total loans and

extensions of credit by a credit union to a member outstanding at any given time and not fully secured, as determined in a manner consistent with subsection (d), by collateral with a market value at least equal to the amount of the loan or extension of credit may not exceed fifteen percent (15%) of the capital and surplus of the credit union.

(d) Except as provided in subsection (e), the total loans and extensions of credit by a credit union to a member outstanding at any given time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of funds outstanding may not exceed ten percent (10%) of the capital and surplus of the credit union. The limitation in this subsection is separate from and in addition to the limitation set forth in subsection (c).

(e) The limitations set forth in subsections (c) and (d) are subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the member negotiating it with recourse are not subject to any limitation based on capital and surplus.

(2) The purchase of bankers' acceptances of the kind described in 12 U.S.C. 372 and issued by a financial institution organized or reorganized under the laws of Indiana or any other state or the United States are not subject to any limitation based on capital and surplus.

(3) Loans or extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples are subject to a limitation of thirty-five percent (35%) of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent (115%) of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by any other obligation fully guaranteed as to principal and interest by the United States are not subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitment or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States are not subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending credit union are not subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any credit union, when the

loans or extensions of credit are approved by the director of the department, are not subject to any limitation based on capital and surplus.

(f) Loans or extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guarantee by the member transferring the paper are subject under this section to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements set forth in subsection (d).

(g) If the credit union's files or the knowledge of the credit union's officers of the financial condition of each maker of consumer paper described in subsection (f) is reasonably adequate, and an officer of the credit union designated for that purpose by the board of directors of the credit union certifies in writing that the credit union is relying primarily upon the responsibility of each maker for payment of the loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each maker shall be the sole applicable loan limitations.

(h) Loans or extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent (115%) of the face amount of the note covered are subject under this section, notwithstanding the collateral requirements set forth in subsection (d), to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus.

(i) Loans or extensions of credit that arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller and that are secured by the cattle being sold, are subject under this section, notwithstanding the collateral requirements set forth in subsection (d), to a limitation of twenty-five percent (25%) of the capital and surplus.

(j) Except as otherwise provided, an officer, director, employee, or attorney of a credit union who stipulates for, receives, or consents or agrees to receive, any fee, commission, gift, or thing of value, from any person, for the purpose of procuring or endeavoring to procure for any member any loan from or the purchase or discount of any paper, note, draft, check, or bill of exchange by the credit union, commits a Class A misdemeanor.

(k) Except as otherwise provided in this chapter, any credit union that holds obligations of indebtedness in violation of the limitations prescribed in this section shall, not later than July 1, 2006, cause the amount of the obligations to conform to the limitations prescribed by this chapter and by the provisions of this section. The department may, in its discretion, extend the time for effecting this conformity, in individual instances, if the interests of the depositors will be protected and served by an extension. Upon the failure of a credit

union to comply with the limitations, in accordance with this section or in accordance with any order of the department concerning the limitations, the department may declare that the credit union is conducting its business in an unauthorized or unsafe manner and proceed in accordance with IC 28-1-3.1-2.

(l) The department may apply the provisions of 12 CFR 32 in the application and administration of this chapter.

As added by P.L.141-2005, SEC.18. Amended by P.L.1-2006, SEC.493; P.L.90-2008, SEC.46.

IC 28-7-2

Repealed

(Repealed by Acts 1971, P.L.366, SEC.10.)

IC 28-7-2.1

Repealed

(Repealed by P.L.258-1989, SEC.6.)

IC 28-7-2.5

Chapter 2.5. Conservatorship of Credit Unions

IC 28-7-2.5-1

Application of chapter

Sec. 1. This chapter applies to a credit union (as defined in IC 28-7-1-0.5(3)).

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-2

Application of definitions

Sec. 2. Except as otherwise provided, the definitions in IC 28-7-1 apply throughout this chapter.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-3

Appointment of conservator; bond or security; eligible conservators

Sec. 3. (a) The department may appoint a conservator for a credit union if the department determines that:

- (1) one (1) or more grounds for the appointment of a receiver under IC 28-1-3.1-2(a) exist with respect to the credit union; or
- (2) the appointment of a conservator is necessary to conserve the assets of the credit union for the benefit of the members, depositors, and other creditors of the credit union.

(b) A conservator appointed under this section shall give any bond or security that the department considers appropriate.

(c) The department may appoint any of the following as a conservator under this section:

- (1) A private insurance company authorized to insure deposits or share accounts in Indiana.
- (2) The National Credit Union Administration or its successor.
- (3) Any competent and disinterested person.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-4

Reimbursement of department; administrative expenses

Sec. 4. (a) A conservator appointed by the department under this chapter shall reimburse the department for all amounts expended by the department in connection with the conservatorship. Amounts reimbursed to the department under this subsection shall be paid from the assets of the credit union as administrative expenses. Upon approval of the department, the conservator shall pay all other administrative expenses of the conservatorship from the assets of the credit union.

(b) Administrative expenses described in this section constitute a first charge against the assets of the credit union. The conservator shall pay the administrative expenses in full before any:

- (1) final distribution of the credit union's assets; or
- (2) payment of dividends to members, depositors, and other

creditors of the credit union.
As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-5

Possession of books, records, and assets; conservation of assets; powers and obligations of conservator; rights of parties

Sec. 5. (a) Under the direction of the department, a conservator appointed under this chapter shall:

(1) take possession of the books, records, and assets of the credit union; and

(2) take any action necessary to conserve the assets of the credit union pending:

(A) a liquidation under IC 28-1-3.1; or

(B) other disposition of the credit union's business as provided by law.

(b) A conservator appointed under this chapter:

(1) has all the rights, powers, and privileges of a receiver appointed under IC 28-1-3.1, except the power to liquidate a credit union; and

(2) is subject to those obligations and liabilities to which a receiver is subject, to the extent the obligations and liabilities are consistent with this chapter.

(c) Throughout the time a conservator is in possession of a credit union under this chapter, the rights of all parties with respect to the credit union are the same as if a receiver had been appointed under IC 28-1-3.1.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-6

Amounts available to members, depositors, and creditors; new shares, deposits, and assets; return of control to board

Sec. 6. (a) While a credit union is in conservatorship under this chapter, the department may require the conservator to set aside and make available for:

(1) withdrawal by members and depositors; or

(2) payment to other creditors;

on a pro rata basis, any amounts that, in the opinion of the department, may be safely and prudently used for the purposes described in subdivisions (1) through (2).

(b) The department may permit a conservator appointed under this chapter to receive new shares and deposits after the credit union is placed in conservatorship. Shares and deposits received by a conservator while a credit union is in conservatorship are not subject to any limitation with respect to payment or withdrawal. The conservator shall segregate any:

(1) shares or deposits; or

(2) new assets acquired on account of shares and deposits;

received after the credit union is placed in conservatorship from the shares, deposits, and assets held by the credit union at the time the credit union is placed in conservatorship.

(c) A conservator shall not use any shares, deposits, or assets received after the credit union is placed in conservatorship to:

- (1) liquidate any indebtedness of the credit union existing at the time the credit union is placed in conservatorship; or
- (2) pay any subsequent indebtedness incurred to liquidate any indebtedness of the credit union existing at the time the credit union is placed in conservatorship.

(d) Any shares or deposits received after a credit union is placed in conservatorship shall be:

- (1) kept in cash;
- (2) invested in direct obligations of the United States; or
- (3) deposited in depository institutions designated by the department.

(e) If a credit union placed in conservatorship under this chapter is returned to the control of the credit union's board of directors, the protections provided under subsections (b), (c), and (d) (with respect to shares and deposits received while the credit union is in conservatorship) do not apply after fifteen (15) days after the date control of the credit union is returned to the board. Before returning control of the credit union to the credit union's board, the conservator shall publish a notice, in a form approved by the department, stating:

- (1) the date on which the affairs of the credit union will be returned to the control of the credit union's board; and
- (2) that the protections provided under subsections (b), (c), and (d) (with respect to shares and deposits received while the credit union is in conservatorship) do not apply after fifteen (15) days after the date identified under subdivision (1).

The conservator shall send, by United States mail, a copy of the notice to every person that purchased shares or deposited money in the credit union after the credit union is placed in conservatorship and before control of the credit union is returned to the credit union's board.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-7

Loans in aid of operation or reorganization; security

Sec. 7. With the prior approval of the department, a conservator appointed under this chapter may borrow money as necessary or expedient to aid in the operation or reorganization of the credit union. Any loan obtained by the conservator under this section may be secured by the pledge or mortgage of, or through a lien upon or security interest in, the assets of the credit union.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-8

Termination of conservatorship; appointment of receiver; liquidation

Sec. 8. (a) The department may:

- (1) terminate a conservatorship ordered under this chapter; and
- (2) permit the credit union subject to the conservatorship to

resume the transaction of the credit union's business, subject to any terms, conditions, restrictions, and limitations that the department may prescribe;

if the department is satisfied that a termination of the conservatorship may be done safely and is in the public interest.

(b) Subject to subsection (c), the department may:

(1) terminate a conservatorship ordered under this chapter; and

(2) apply for the appointment of a receiver for the credit union under IC 28-1-3.1;

if the department determines that the appointment of a receiver for the credit union is in the public interest.

(c) If the department determines that the liquidation of a credit union placed in conservatorship under this chapter is in the public interest, the department shall:

(1) terminate the conservatorship ordered under this chapter; and

(2) apply for the appointment of a receiver for the credit union under IC 28-1-3.1.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-2.5-9

Adoption of rules

Sec. 9. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.10-2006, SEC.37 and P.L.57-2006, SEC.37.

IC 28-7-3

Repealed

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

IC 28-7-4

Repealed

(Repealed by Acts 1971, P.L.366, SEC.10.)

IC 28-7-5

Chapter 5. Pawnbrokers

IC 28-7-5-1

Citation

Sec. 1. This chapter shall be known as the Pawnbroking Law.
(Formerly: Acts 1935, c.195, s.1.) As amended by P.L.263-1985, SEC.182.

IC 28-7-5-2

Definitions

Sec. 2. In this chapter, unless the context otherwise requires:

"Director" refers to the director of the department.

"Pawnbroker" means any person, partnership, association, limited liability company, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness.

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

"Person" means any individual, limited liability company, sole proprietorship, partnership, trust, joint venture, corporation, unincorporated organization, or other form of entity, however organized.

"Month" means a period extending from a given date in one (1) calendar month to the like date in the succeeding calendar month or, if there is no such like date, then to the last day of the succeeding calendar month. For purposes of this chapter, each month is considered to have thirty (30) days.

(Formerly: Acts 1935, c.195, s.2.) As amended by P.L.263-1985, SEC.183; P.L.14-1992, SEC.131; P.L.42-1993, SEC.74; P.L.258-2003, SEC.11; P.L.10-2006, SEC.38 and P.L.57-2006, SEC.38; P.L.90-2008, SEC.47.

IC 28-7-5-3

Necessity of license

Sec. 3. No person shall engage in business as a pawnbroker, act as a pawnbroker, transact or solicit business as a pawnbroker, or use in an advertisement a word or statement that states or represents that the person is a pawnbroker, except as authorized by this chapter and without first obtaining a license from the department.

(Formerly: Acts 1935, c.195, s.3.) As amended by P.L.263-1985, SEC.184; P.L.14-1992, SEC.132; P.L.163-2001, SEC.1; P.L.90-2008, SEC.48.

IC 28-7-5-4**Application; business locations; other business conducted; criminal history; evidence of compliance; criminal background checks**

Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

- (1) the nature of the other business;
- (2) the name under which the other business operates;
- (3) the address of the principal office of the other business;
- (4) the name and address of the business's resident agent in Indiana; and
- (5) any other information the director may require.

(b) An application submitted under this section must indicate whether any individual described in section 8(a)(2) or 8(a)(3) of this chapter at the time of the application:

- (1) is under indictment for a felony under the laws of Indiana or any other jurisdiction; or
- (2) has been convicted of or pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide 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.

(d) For purposes of subsection (c), evidence of compliance with this section 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);
- (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.

(Formerly: Acts 1935, c.195, s.4.) As amended by P.L.14-1992, SEC.133; P.L.63-2001, SEC.18 and P.L.134-2001, SEC.20; P.L.10-2006, SEC.39 and P.L.57-2006, SEC.39; P.L.213-2007, SEC.70; P.L.217-2007, SEC.68; P.L.3-2008, SEC.223; P.L.90-2008, SEC.49; P.L.1-2009, SEC.149; P.L.35-2010, SEC.170.

IC 28-7-5-5 Version a

Initial and renewal applications; fees; financial statement; proof of bond and insurance; standards

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

Sec. 5. (a) The initial application and any renewal application shall be accompanied by a fee fixed by the department under IC 28-11-3-5. The initial application and any renewal application must include a financial statement that:

- (1) is prepared in accordance with standards adopted by the director;
- (2) indicates the applicant meets minimum financial responsibility standards adopted by the director; and
- (3) is prepared by a third party acceptable to the director.

(b) The initial application and any renewal application must be accompanied by proof that the applicant:

- (1) has executed a bond, payable to the state, in an amount determined by the director; and
- (2) has obtained property and casualty insurance coverage, in an amount determined by the director;

in accordance with standards adopted by the director.

(c) Any standards adopted by the director and described in subsection (a)(1), (a)(2), or (b) must be made available:

- (1) for public inspection and copying at the offices of the department under IC 5-14-3; and
- (2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(Formerly: Acts 1935, c.195, s.5.) As amended by P.L.14-1992, SEC.134; P.L.42-1993, SEC.75; P.L.45-1995, SEC.23; P.L.80-1998, SEC.12; P.L.10-2006, SEC.40 and P.L.57-2006, SEC.40.

IC 28-7-5-5 Version b

Initial and renewal applications; fees; financial statement; proof of bond and insurance; standards; 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. 5. (a) The initial application and any renewal application shall be accompanied by a fee fixed by the department under IC 28-11-3-5. The initial application and any renewal application must include a financial statement that:

- (1) is prepared in accordance with standards adopted by the director;

- (2) indicates the applicant meets minimum financial responsibility standards adopted by the director; and
- (3) is prepared by a third party acceptable to the director.
- (b) The initial application and any renewal application must be accompanied by proof that the applicant:
 - (1) has executed a bond, payable to the state, in an amount determined by the director; and
 - (2) has obtained property and casualty insurance coverage, in an amount determined by the director;in accordance with standards adopted by the director.
- (c) Any standards adopted by the director and described in subsection (a)(1), (a)(2), or (b) must be made available:
 - (1) for public inspection and copying at the offices of the department under IC 5-14-3; and
 - (2) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.
- (d) 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).

(Formerly: Acts 1935, c.195, s.5.) As amended by P.L.14-1992, SEC.134; P.L.42-1993, SEC.75; P.L.45-1995, SEC.23; P.L.80-1998, SEC.12; P.L.10-2006, SEC.40 and P.L.57-2006, SEC.40; P.L.172-2011, SEC.133.

IC 28-7-5-6

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-7

Repealed

(Repealed by P.L.45-1995, SEC.33.)

IC 28-7-5-8

Issuance and duration of license; evidence of compliance; denial of application; person not qualifying for license; replacement of manager

Sec. 8. (a) Upon an applicant's filing of the application required by section 4 of this chapter and payment of the license fee, if the department finds the financial standing, competence, business experience, and character of:

- (1) the applicant, any employee of the applicant, and any significant affiliate of the applicant;
- (2) each director, executive officer, 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 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;

are such that the business will be operated honestly, fairly, and efficiently and that the convenience and needs of the public exist for the operation of the business in the community wherein the applicant proposes to operate, it shall issue and deliver a license to the applicant, which license shall authorize the applicant to engage in the business of pawnbroking.

(b) The director is entitled to request evidence of compliance with the requirements of this section by the licensee, including any affiliate or person described in subsection (a), at:

(1) the time of issuance of the license;

(2) the time of renewal of the license; or

(3) any other time considered necessary by the director.

A license shall remain in effect until it is surrendered, revoked, or suspended. If the department denies the application, it shall notify the applicant of the denial. The department may hold a public hearing if the department considers the hearing necessary.

(c) The department may deny an application under this section if the director determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(d) If a licensee replaces a manager, the licensee shall give the department written notice of the replacement not later than thirty (30) days after engaging another person to serve as manager.

(Formerly: Acts 1935, c.195, s.8.) As amended by P.L.263-1985, SEC.186; P.L.14-1992, SEC.136; P.L.45-1995, SEC.24; P.L.80-1998, SEC.13; P.L.10-2006, SEC.41 and P.L.57-2006, SEC.41; P.L.90-2008, SEC.50; P.L.35-2010, SEC.171; P.L.89-2011, SEC.50.

IC 28-7-5-9

License not transferable or assignable; multiple business locations

Sec. 9. Except in a transaction approved under section 9.1 of this chapter, a license shall not be transferable or assignable. More than one (1) place of business may be maintained under the same license.

(Formerly: Acts 1935, c.195, s.9.) As amended by P.L.263-1985, SEC.187; P.L.14-1992, SEC.137; P.L.45-1995, SEC.25; P.L.89-2011, SEC.51.

IC 28-7-5-9.1

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. 9.1. (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 4 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.52.

IC 28-7-5-10

Relocation or addition of business location; notice and request for approval

Sec. 10. Whenever a licensee:

- (1) changes its place of business to another location; or
- (2) adds one (1) or more business locations;

the licensee shall give written notice to the department. Not later than thirty (30) days before the relocation or addition of one (1) or more business locations under this section, the licensee shall request approval in a form prescribed by the director to add or change one (1) or more business locations.

(Formerly: Acts 1935, c.195, s.10.) As amended by P.L.14-1992, SEC.138; P.L.45-1995, SEC.26; P.L.10-2006, SEC.42 and P.L.57-2006, SEC.42.

IC 28-7-5-10.1

Ceasing business as pawnbroker; requirements; failure to comply; appointment of liquidating agent by director

Sec. 10.1. (a) A licensee that decides to cease engaging in business as a pawnbroker in Indiana shall do the following not later than thirty (30) days before closing the licensee's pawnbroking business:

- (1) Notify the department of:
 - (A) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and
 - (B) the date on which the licensee's pawnbroking business will cease.
- (2) Surrender the license to the department.
- (3) Provide the following to all pledgers that have loans outstanding with the licensee:
 - (A) Notice of:
 - (i) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and
 - (ii) the date on which the licensee's pawnbroking business will cease.
 - (B) Instructions, approved by the director, on how pledged articles may be redeemed before the date identified under clause (A)(ii).

(b) If:

- (1) a licensee ceases engaging in business as a pawnbroker in Indiana without complying with subsection (a); and

(2) the director determines that it is in the public interest that the department oversees the liquidation of the licensee's business;
the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of the liquidation.

(c) If:

(1) a license is revoked under section 13 of this chapter and the director determines that it is not in the best interests of the public for the licensee to liquidate the business; or

(2) the director otherwise determines that it is in the best interests of the public;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of liquidation.

*As added by P.L.213-2007, SEC.71; P.L.217-2007, SEC.69.
Amended by P.L.90-2008, SEC.51; P.L.35-2010, SEC.172.*

IC 28-7-5-10.5

Other business conducted at pawnbrokering locations; notice to department

Sec. 10.5. (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 acting as a pawnbroker 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 acting as a pawnbroker under this chapter.

(2) Any information concerning other business conducted at the locations identified in the licensee's application under section 4(a) 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 4(a) 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 license renewal fee under section 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

As added by P.L.10-2006, SEC.43 and P.L.57-2006, SEC.43.

IC 28-7-5-10.6

Felony convictions or pleas; notice to department

Sec. 10.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any individual described in section 8(a)(2) or 8(a)(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 4(b) of this chapter:

(1) not later than thirty (30) days after the licensee or any individual described in section 8(a)(2) or 8(a)(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 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

*As added by P.L.213-2007, SEC.72; P.L.217-2007, SEC.70.
Amended by P.L.90-2008, SEC.52; P.L.35-2010, SEC.173.*

IC 28-7-5-11

License renewal; application; fees

Sec. 11. (a) To remain in force, a license must be renewed before June 1 of each year, beginning with the year following the date of issuance. A licensee may renew a license issued under this chapter by filing a renewal application prescribed by the director. The department shall prescribe the form of the renewal application. To be accepted for processing, a renewal application must be accompanied by:

(1) the license renewal fee fixed by the department under IC 28-11-3-5; and

(2) all other information and documents requested by the director.

(b) The department may fix a daily late fee under IC 28-11-3-5 for a:

(1) renewal application; or

(2) license renewal fee;

that is received by the department after June 1.

(Formerly: Acts 1935, c.195, s.11.) As amended by P.L.263-1985, SEC.188; P.L.14-1992, SEC.139; P.L.42-1993, SEC.76; P.L.45-1995, SEC.27; P.L.35-2010, SEC.174; P.L.89-2011, SEC.53.

IC 28-7-5-12

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-13

Revocation of license; grounds; procedure

Sec. 13. (a) The department shall, upon ten (10) days notice to the licensee stating the contemplated action and in general the grounds therefor, and upon reasonable opportunity to be heard, revoke, by written order, any license issued under this chapter if it shall find that:

(1) the licensee has failed to comply with any ruling or

requirements of the department;

(2) the licensee has violated any provision of this chapter or any rule made by the department; or

(3) any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the department in refusing originally to issue such 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.

(Formerly: Acts 1935, c.195, s.13.) As amended by P.L.263-1985, SEC.190; P.L.14-1992, SEC.140; P.L.45-1995, SEC.28; P.L.176-1996, SEC.22; P.L.80-1998, SEC.14.

IC 28-7-5-13.1

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

Sec. 13.1. (a) A license issued by the department under this chapter may be revoked or suspended by the department if the licensee fails to:

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

(2) pay any license renewal fee described under section 11 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 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 a license revocation or suspension, the license remains in force.

As added by P.L.176-1996, SEC.23. Amended by P.L.10-2006, SEC.44 and P.L.57-2006, SEC.44; P.L.89-2011, SEC.54.

IC 28-7-5-14

Effect of revocation, suspension, or surrender of license

Sec. 14. No revocation or suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any borrower.

(Formerly: Acts 1935, c.195, s.14.)

IC 28-7-5-15

Investigatory and enforcement authority; costs of investigation; voided loans

Sec. 15. (a) For the purpose of discovering violations of this chapter and securing information necessary for the enforcement of this chapter, the department may investigate:

- (1) any licensee; or
- (2) any person that it suspects to be operating without a license or in violation of this chapter.

The department has all investigatory and enforcement authority under IC 28-11 for financial institutions. If the department conducts an investigation under this section, the licensee or person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a person knowingly makes a pawn loan without the license required by section 3 of this chapter, the loan made in violation of this chapter is void and the debtor is not obligated to pay the principal amount of the loan, any finance charge on the loan, or any additional fee under section 28.5 of this chapter. The debtor, or the department on behalf of the debtor, may recover any amount paid to the person who knowingly violated section 3 of this chapter.

(Formerly: Acts 1935, c.195, s.15.) As amended by P.L.263-1985, SEC.191; P.L.14-1992, SEC.141; P.L.42-1993, SEC.77; P.L.172-1997, SEC.19; P.L.10-2006, SEC.45 and P.L.57-2006, SEC.45.

IC 28-7-5-15.1

Applicability of law governing administrative orders and procedures; venue

Sec. 15.1. 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.175.

IC 28-7-5-16

Books, accounts, and records; examination and costs; bills of sale; sales at stipulated price; record of control; examination of vendors

Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records

required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

- (1) Date of bill of sale.
- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.
- (5) Signature of seller.
- (6) Address of seller.
- (7) Date of birth of the seller.
- (8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

- (1) Date of resale.
- (2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

(f) 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.

(Formerly: Acts 1935, c.195, s.16.) As amended by P.L.263-1985, SEC.192; P.L.14-1992, SEC.142; P.L.42-1993, SEC.78; P.L.80-1998, SEC.15; P.L.163-2001, SEC.2; P.L.10-2006, SEC.46 and P.L.57-2006, SEC.46; P.L.35-2010, SEC.176.

IC 28-7-5-17

Report; late fee

Sec. 17. Each licensee shall file a report as requested by the director, but not more frequently than annually, giving any relevant information the department may reasonably require concerning the business and operations of each licensed place of business conducted by the licensee within the state. The report must be in the form prescribed by the director. The department may impose a fee established under IC 28-11-3-5 for each day the report is delinquent. *(Formerly: Acts 1935, c.195, s.17.) As amended by P.L.14-1992, SEC.143; P.L.45-1995, SEC.29; P.L.172-1997, SEC.20; P.L.90-2008, SEC.53.*

IC 28-7-5-18

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-19

Loan record requisites; data recording methods

Sec. 19. (a) Every pawnbroker shall keep a record in ink that must include the following:

(1) The name, date of birth, and address of the pledger, or where the pledge is made by a person acting as agent for a disclosed principal, the names, dates of birth, and addresses of principal and agent.

(2) The date of the transaction.

(3) The amount of the loan.

(4) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

- (5) The serial number of the loan.
- (6) The date on which each loan was paid in full, renewed, or unredeemed.
- (7) An itemization of principal, interest, and additional fees collected.
- (8) An itemization of fees authorized under IC 28-7-5-25.
- (9) The total of all charges collected.
- (10) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(b) Other methods of recording data, such as electronic or computerized methods, may be used provided written printouts or hard copies of the required data are readily available. The record keeping system of a licensee shall be made available in Indiana for examination. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available.

(Formerly: Acts 1935, c.195, s.19.) As amended by P.L.14-1992, SEC.144; P.L.42-1993, SEC.79; P.L.80-1998, SEC.16; P.L.163-2001, SEC.3.

IC 28-7-5-20

Signature, fingerprint, and identification of pledger

Sec. 20. The pawnbroker shall at the time of making a loan or purchase require the signature and right thumbprint of the pledger on all pawn tickets, bills of sale, or ledger cards retained by the licensee. If the person is unable to write, the person shall sign by mark. In such event, the pawnbroker shall record on the signature card such information as will enable the pawnbroker to identify the person in case of the loss of the ticket. If the person does not have a right thumb, any other existing finger may be used. However, a clear print must be obtained.

(Formerly: Acts 1935, c.195, s.20.) As amended by P.L.263-1985, SEC.193; P.L.14-1992, SEC.145; P.L.45-1995, SEC.30.

IC 28-7-5-21

Pawn ticket

Sec. 21. (a) The pawnbroker shall, at the time of making a loan, deliver to the pledger or the pledger's agent a memorandum or ticket on which shall be legibly written or printed the following information:

- (1) The name of the pledger.
- (2) The name of the pawnbroker and the place where the pledge is made.
- (3) The article or articles pledged, and a description of the articles. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books,

or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(4) The amount of the loan.

(5) The date of the transaction.

(6) The serial number of the loan.

(7) The sum of the interest as provided in section 28 of this chapter and the charge as provided in section 28.5 of this chapter stated as an annual percentage rate computed in accordance with regulations issued by the Federal Reserve Board under the Federal Consumer Credit Protection Act (as defined in IC 24-4.5-1-302).

(8) The amount of interest.

(9) The amount of charge and principal due at maturity.

(10) A copy of sections 28, 28.5, and 30 of this chapter.

(11) The date of birth of the pledger.

(12) The type of government issued identification used to verify the identity of the pledger, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(13) The last date on which the pledged article or articles may be redeemed before the article or articles may be sold if the loan is not redeemed, renewed, or extended. The language setting forth the information described in this subdivision must be in 14 point boldface type.

(14) A statement that:

(A) notifies the pledger that the pawnbroking transaction is regulated by the department; and

(B) includes a toll free telephone number for the department.

(b) A pawnbroker may insert in such ticket any other terms and conditions not inconsistent with this chapter. However, nothing appearing on a pawn ticket shall relieve the pawnbroker of the obligations to exercise reasonable care in the safekeeping of articles pledged with the pawnbroker.

(Formerly: Acts 1935, c.195, s.21.) As amended by P.L.263-1985, SEC.194; P.L.14-1992, SEC.146; P.L.45-1995, SEC.31; P.L.80-1998, SEC.17; P.L.163-2001, SEC.4; P.L.10-2006, SEC.47 and P.L.57-2006, SEC.47; P.L.213-2007, SEC.73; P.L.217-2007, SEC.71.

IC 28-7-5-21.5

Required disclosure of information

Sec. 21.5. A pawnbroker is required to disclose to a debtor in a pawn transaction the information required by the Federal Reserve Board under the Federal Consumer Credit Protection Act, 15 U.S.C. 1601 et seq., and its implementing regulations.

As added by P.L.172-1997, SEC.21. Amended by P.L.80-1998,

SEC.18.

IC 28-7-5-22

Presumptive right of ticket holder to redeem; compliance with local ordinance or law concerning pledge retention

Sec. 22. (a) The holder of a ticket described in section 21 of this chapter shall be presumed to be the person entitled to redeem the pledge, and, except as provided in subsection (b), the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal, interest and charge.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period of time, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

(Formerly: Acts 1935, c.195, s.22.) As amended by P.L.14-1992, SEC.147; P.L.35-2010, SEC.177.

IC 28-7-5-23

Redemption by mail; compliance with local ordinance or law concerning pledge retention

Sec. 23. (a) Except as provided in subsection (b), when a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order for the total amount due and a reasonable fee for shipping and handling, the pawnbroker may securely pack and forward the pledge to the pledger in accordance with the remitter's instructions. If the remittance is insufficient to cover the amount due, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery of the pledge to the carrier or his agent.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

(Formerly: Acts 1935, c.195, s.23.) As amended by P.L.14-1992, SEC.148; P.L.35-2010, SEC.178.

IC 28-7-5-24

Partial payment before maturity

Sec. 24. Upon presentation of the pawn ticket prior to maturity and the payment of accrued interest and charge and the tender of not less than one dollar (\$1.00) of the principal balance, the pawnbroker shall accept the same, showing due credit of principal payment on pawn ticket, together with the amount of unpaid principal balance, or issue a new ticket for the reduced amount. Future interest charges and charge shall be computed on the unpaid principal balance.

(Formerly: Acts 1935, c.195, s.24.)

IC 28-7-5-25

Loss, destruction, or theft of pawn ticket

Sec. 25. If a ticket is lost, destroyed, or stolen, the pledger shall so notify the pawnbroker in writing. Before delivering the collateral or issuing a new ticket, the pawnbroker shall require the pledger to make affidavit of the alleged loss, destruction, or theft of the ticket. Upon receipt of such affidavit, the pawnbroker shall permit the pledger either to redeem the loan or to receive a new ticket upon the payment of accrued interest and charges, and the pawnbroker shall incur no liability for so doing, unless the pawnbroker had previously received written notice of any adverse claim. The pawnbroker may collect a fee of three dollars (\$3) for reissuing the pawn ticket or affecting the affidavit along with the current lawful charge for notary fee.

(Formerly: Acts 1935, c.195, s.25.) As amended by P.L.14-1992, SEC.149.

IC 28-7-5-26**Alteration of pawn ticket; effect**

Sec. 26. The alteration of a ticket shall not excuse the pawnbroker who issued it from liability to deliver the pledge according to the terms of the ticket as originally issued, but shall relieve the pawnbroker of any other liability to the pledger or holder of the ticket.

(Formerly: Acts 1935, c.195, s.25a.) As amended by P.L.14-1992, SEC.150.

IC 28-7-5-27**Repealed**

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-28**Rate of interest; calculation for partial month; minimum term; reduction in advance; penalty for excessive or unauthorized interest or charges**

Sec. 28. (a) The maximum rate of interest charged by pawnbrokers shall be the same as the maximum loan finance charge for supervised lenders under IC 24-4.5-3-508(2). For purposes of this subsection:

- (1) the term of a loan commences on the date on which the loan is made;
- (2) differences in lengths of months are disregarded; and
- (3) each day is counted as one-thirtieth (1/30) of a month.

The minimum term of a loan made by a pawnbroker is one (1) month. However, on loans paid in full within the first month, the pawnbroker may charge one (1) month's interest.

(b) Interest shall not be deducted in advance, neither shall the pawnbroker induce or permit any borrower to split up or divide any loan or loans for the purpose of evading any provisions of this chapter.

(c) If a pawnbroker charges or receives interest in excess of that

provided in this section, or makes any charges not authorized by this chapter, the pawnbroker shall forfeit principal and interest and return the pledge upon demand of the pledger and surrender of the pawn ticket without the principal or interest. If such excessive or unauthorized charges have been paid by the pledger, the pledger may recover the same, including the principal if paid, in a civil action against the pawnbroker.

(Formerly: Acts 1935, c.195, s.27; Acts 1969, c.287, s.1; Acts 1971, P.L.402, SEC.1.) As amended by Acts 1981, P.L.259, SEC.1; P.L.272-1983, SEC.1; P.L.14-1992, SEC.151; P.L.42-1993, SEC.80; P.L.258-2003, SEC.12.

IC 28-7-5-28.5

Additional charge; servicing fee

Sec. 28.5. (a) Except as provided in subsection (b), in addition to the loan finance charge authorized by section 28 of this chapter, a pawnbroker may charge, contract for, and receive a fee not to exceed one-fifth (1/5) of the principal amount of the loan per month or any fractional part of a month for servicing the pledge that may include investigating the title, storing, providing security, appraisal, handling, making daily reports to local law enforcement officers, and for other expenses and costs associated with servicing the pledge. The fee for each month after the second month of the loan transaction is limited to one-thirtieth (1/30) of the monthly fee for each day the loan is outstanding. Such a charge when made and collected is not interest and is not a rate under IC 35-45-7-1.

(b) If a loan is renewed or extended, the monthly fee authorized by subsection (a) accrues at a rate of one-thirtieth (1/30) of the monthly fee each day:

- (1) beginning upon the expiration of two (2) months after the original date of the loan; and
- (2) continuing through and including the day a pledger redeems the pledge.

As added by P.L.14-1992, SEC.152. Amended by P.L.42-1993, SEC.81; P.L.63-2001, SEC.19; P.L.134-2001, SEC.21; and P.L.163-2001, SEC.5; P.L.258-2003, SEC.13.

IC 28-7-5-29

Liability for loss to pledger; due care

Sec. 29. A pawnbroker shall be liable for the loss of a pledge resulting from the pawnbroker's failure to exercise reasonable care in regard to it, but the pawnbroker shall not be liable for the loss of a pledge which could not have been avoided by the exercise of reasonable care. The burden of proof to establish due care shall be upon the pawnbroker.

(Formerly: Acts 1935, c.195, s.28.) As amended by P.L.14-1992, SEC.153.

IC 28-7-5-29.5

Waiver of rights not permitted

Sec. 29.5. A debtor may not waive or agree to forego any rights or benefits under this chapter.

As added by P.L.172-1997, SEC.22.

IC 28-7-5-30

Disposition of unredeemed pledges; prohibit public access

Sec. 30. (a) Subject to subsections (b) and (c), upon the expiration of two (2) months from the maturity of the loan, a pawned article becomes the property of the pawnbroker and is subject to sale.

(b) Subsection (a) applies only if the pledger is given a reasonable opportunity during:

(1) the term of the loan; and

(2) the two (2) month period described in subsection (a);
to repay the loan and redeem the pawned article.

(c) During the term of the loan and the two (2) month period described in subsection (a), the pawnbroker may not allow the public to have access to the pawned article.

(Formerly: Acts 1935, c.195, s.29.) As amended by P.L.271-1985, SEC.1; P.L.14-1992, SEC.154; P.L.80-1998, SEC.19; P.L.163-2001, SEC.6; P.L.258-2003, SEC.14; P.L.10-2006, SEC.48 and P.L.57-2006, SEC.48; P.L.213-2007, SEC.74; P.L.217-2007, SEC.72.

IC 28-7-5-31

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-32

Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 28-7-5-33

Lien

Sec. 33. A pawnbroker has a first lien on all pledges for the amount of his loan, interest, and charges except:

(1) when the property that constitutes the pledge is stolen (IC 35-43-4-2) or converted (IC 35-43-4-3) property; or

(2) where a prior lien exists under another statute.

(Formerly: Acts 1935, c.195, s.32.) As amended by P.L.272-1983, SEC.2.

IC 28-7-5-34

Delivery of pledge; necessity of surrender of pawn ticket

Sec. 34. A pawnbroker shall not be required to deliver a pledge except upon surrender of the ticket, unless the ticket be impounded or its negotiation enjoined by a court.

(Formerly: Acts 1935, c.195, s.33.) As amended by P.L.263-1985, SEC.195; P.L.14-1992, SEC.155.

IC 28-7-5-35

Conflicting claims; sale of pledge subject to adjudication

Sec. 35. If more than one (1) person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. If no action be brought against the pawnbroker by either party within the period for which the pawnbroker is required under section 30 of this chapter to hold the pledge, or within one (1) month after notice of an adverse claim, the pawnbroker may proceed to sell the pledge subject to adjudication of the parties' rights.

(Formerly: Acts 1935, c.195, s.34.) As amended by P.L.263-1985, SEC.196; P.L.14-1992, SEC.156; P.L.258-2003, SEC.15.

IC 28-7-5-36**Unlawful transactions**

Sec. 36. (a) No pawnbroker shall:

- (1) receive any pledge or make a purchase from a person under eighteen (18) years of age; or
- (2) receive any pledge or make a purchase of property that the pawnbroker believes or should have reason to believe is stolen property acquired as a result of a crime.

(b) No pawnbroker shall purchase personal property or any other thing of value agreeing to sell the same back to the seller at a price other than the original purchase price, at a total charge, rate of interest, discount, or other remuneration in excess of the rate chargeable under sections 28 and 28.5 of this chapter.

(c) If a pawnbroker purchases personal property or any other thing of value agreeing to sell the same back to the seller at a price other than the original purchase price, section 30 of this chapter applies.

(Formerly: Acts 1935, c.195, s.35; Acts 1973, P.L.264, SEC.4.) As amended by P.L.17-1985, SEC.22; P.L.14-1992, SEC.157; P.L.42-1993, SEC.82; P.L.45-1995, SEC.32.

IC 28-7-5-37**Violations**

Sec. 37. A person who violates this chapter commits a Class A misdemeanor.

(Formerly: Acts 1935, c.195, s.36.) As amended by Acts 1978, P.L.2, SEC.2821; P.L.14-1992, SEC.158; P.L.42-1993, SEC.83.

IC 28-7-5-37.5**Compliance with money laundering laws; investigation and enforcement by the department**

Sec. 37.5. (a) A licensee shall comply with all state and federal money laundering statutes and regulations, including the following as they become applicable to licensees under this chapter:

- (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.49 and P.L.57-2006, SEC.49.

IC 28-7-5-38

Violations; civil action; injunctive relief; civil penalties

Sec. 38. The department may bring a civil action, including an action for injunctive relief, on the department's own behalf or on behalf of a pledger, against a person, a business, or a licensee for violating this chapter. If a court finds that the defendant has violated this chapter, the court may assess a civil penalty not to exceed five thousand dollars (\$5,000) per violation.

As added by P.L.42-1993, SEC.84. Amended by P.L.10-2006, SEC.50 and P.L.57-2006, SEC.50.

IC 28-7-5-38.1

Violations; civil penalty

Sec. 38.1. If the department determines, after notice and 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 on the person a civil penalty that does not exceed ten thousand dollars (\$10,000) per violation.

As added by P.L.90-2008, SEC.54. Amended by P.L.35-2010, SEC.179.

IC 28-7-5-39

Confidentiality of records; exceptions; safeguarding of personal records; release of information to supervisory agencies

Sec. 39. (a) Records and information generated by licensees in the course of their business are confidential under IC 5-14-3-4.

(b) A law enforcement or prosecutorial official may obtain or receive records and information described in subsection (a) relating to pawnbroking transactions for use in the official law enforcement purpose of investigating crime.

(c) Law enforcement officials may disclose the name and address of the pawnbroker to an adverse claimant in the case of a dispute over ownership of property in possession of the pawnbroker.

(d) 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.

(e) The director may provide for the release of information under this chapter to representatives of state, federal, or foreign:

- (1) financial institution; or
- (2) money services business;

supervisory agencies.

As added by P.L.163-2001, SEC.7. Amended by P.L.90-2008, SEC.55.

IC 28-7-6

Repealed

(Repealed by P.L.14-1992, SEC.165.)