

**IC 28-15**

**ARTICLE 15. SAVINGS ASSOCIATIONS**

**IC 28-15-1**

Chapter 1. Definitions

**IC 28-15-1-1**

**Applicability of definitions**

Sec. 1. The definitions in this chapter apply throughout IC 28-15, except where the context requires otherwise.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-2**

**"Automated teller machine"**

Sec. 2. "Automated teller machine" means unmanned electronic or mechanical equipment that performs routine financial transactions for the public.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-3**

**"Branch office"**

Sec. 3. "Branch office" means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. However, the term does not include:

- (1) the principal office of a savings association;
- (2) an automated teller machine;
- (3) a night depository; or
- (4) a temporary facility for a savings association as provided in IC 28-2-13-22.5.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-4**

**"Department"**

Sec. 4. "Department" refers to the department of financial institutions.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-5**

**"Deposit account"**

Sec. 5. (a) "Deposit account":

- (1) means the total monetary interest of a depositor in a savings association; and
- (2) consists of the withdrawal value of such interest.

(b) For the purposes of IC 28, a "share account" in a share account association organized and existing before January 1, 1997, has the same meaning as a deposit account.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-6**

**"Deposit association"**

Sec. 6. "Deposit association" means any savings association governed by its members.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-7**

**"Depositor"**

Sec. 7. "Depositor" means a person who owns a withdrawable interest in an account or deposit in a savings association.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-8**

**"Member"**

Sec. 8. "Member" means:

- (1) any depositor in a deposit association or owner of a share account in a share account association; and
- (2) unless otherwise provided by the articles of incorporation, any debtor.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-9**

**"Mutual association"**

Sec. 9. (a) "Mutual association" means a nonstock savings association that is governed by members.

(b) The term includes a deposit association or share account association organized and existing before January 1, 1997.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-10**

**"Property improvement loan"**

Sec. 10. "Property improvement loan" means a loan to the owners of real estate, the proceeds of which are used to improve or equip real estate or a structure upon it.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-11**

**"Savings association"**

Sec. 11. "Savings association" means any:

- (1) building and loan association;
- (2) savings and loan association;
- (3) rural loan and savings association; or
- (4) guaranty loan and savings association;

organized and operating under the laws of Indiana, whether in stock or mutual form.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-1-12**

**"Share account"**

Sec. 12. "Share account" in a share account association organized and existing before January 1, 1997, has the same meaning as a

deposit account.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-1-13**

##### **"Share account association"**

Sec. 13. "Share account association" means any savings association that has accounts representing interests in the shares of the savings association (referred to in this chapter as share accounts).

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-1-14**

##### **"Stock association"**

Sec. 14. "Stock association" means a savings association owned by holders of capital stock.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-1-15**

##### **"Unimpaired capital and unimpaired surplus"**

Sec. 15. "Unimpaired capital and unimpaired surplus" means capital and surplus as that term is defined in 12 CFR 3.100.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-2**

### **Chapter 2. Powers of Savings Associations**

#### **IC 28-15-2-1**

##### **Enumerated powers; purchasing and holding life insurance**

Sec. 1. (a) Savings associations may do the following:

- (1) Accept deposit accounts.
- (2) Issue evidence of deposit account ownership.
- (3) Declare and distribute earnings to members.
- (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and 12 CFR 32:
  - (A) Make loans to members on the security of deposit accounts.
  - (B) Make property improvement loans.
  - (C) Make other loans as provided under IC 28-15-8.
  - (D) Make mortgage loans.
  - (E) Accept additional collateral on mortgage loans.
  - (F) Purchase and sell loans.
  - (G) Negotiate loan servicing agreements.
  - (H) Purchase and sell participating interests in loans.
  - (I) Issue letters of credit with specific expiration dates.
  - (J) Make secured or unsecured loans, which are partially insured or guaranteed in any manner by any state of the United States, the United States government, or any of its agencies or government sponsored enterprises.
  - (K) Purchase commercial paper that is denominated in United States currency and that:
    - (i) is rated by at least one (1) nationally recognized investment rating service in one (1) of the two (2) highest grades; or
    - (ii) meets another standard of creditworthiness determined to be appropriate by the director.
  - (L) Make, purchase, or participate in alternative mortgage loans as provided in IC 28-15-11.
- (6) Acquire and sell real estate in satisfaction of debts previously contracted.
- (7) Acquire real estate for the convenient transaction of its business. A savings association has the same powers under this subdivision as a bank or trust company has under IC 28-1-11-5.
- (8) Notwithstanding any other law, establish, maintain, or relocate one (1) or more branch offices by following the provisions of IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association were a bank.
- (9) Become a member in any agency or instrumentality of the federal government. For the purposes of this subdivision, membership in an agency or instrumentality of the federal government may include:
  - (A) purchasing stock;

- (B) purchasing notes and debentures; or
  - (C) borrowing money.
- (10) Subject to any limitations imposed by the department through policy:
- (A) invest the money deposited in the savings association in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States;
  - (B) become a member of the federal home loan bank of the district in which Indiana is located or an adjoining district;
  - (C) borrow money from:
    - (i) a federal home loan bank described in clause (B);
    - (ii) the Federal Deposit Insurance Corporation; or
    - (iii) any other corporation;
  - (D) transfer, assign to, and pledge with a federal home loan bank described in clause (B), the Federal Deposit Insurance Corporation, or any other corporation any of the bonds, notes, contracts, mortgages, securities, or other property of the savings association held or acquired as security for the payment of loans entered into under clause (C); and
  - (E) exercise all rights, powers, and privileges conferred upon, and do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).
- (11) Subject to the provisions and restrictions of 12 U.S.C. 24 and 12 CFR 1, invest in the following types of securities:
- (A) Bonds, notes, certificates, and other valid obligations of the United States government or any agency of the United States government.
  - (B) Accounts offered by federally insured banks, savings banks, and savings associations.
  - (C) Bonds, notes, or other evidences of indebtedness that are general obligations supported by the full faith and credit of any state in the United States or any city, town, or other political subdivision in any state in the United States if the obligations:
    - (i) have been assigned one (1) of the four (4) highest grades by a nationally recognized investment rating service; or
    - (ii) meet another standard of creditworthiness determined to be appropriate by the director.
  - (D) Shares of stock of a subsidiary that does not exercise a power or engage in any activity that is not authorized for the savings association. The investment power granted by this subdivision is separate from the investment power granted by IC 28-15-9.
  - (E) Corporate debt securities that are denominated in United States currency and that:
    - (i) are rated by at least one (1) nationally recognized

investment rating service in one (1) of the four (4) highest grades; or

(ii) meet another standard of creditworthiness determined to be appropriate by the director.

Corporate debt securities in which a savings association invests under this clause must be convertible into stock at the sole option of the holder, and a savings association is prohibited from exercising the conversion option.

(F) Shares of open end investment companies that are eligible for purchase by national banks.

(G) Bankers' acceptances that are eligible for purchase by national banks.

(12) For the purpose of:

(A) check and deposit sorting and posting;

(B) computation and posting of interest and other credits and charges;

(C) preparation and mailing of checks, statements, notices, and similar items; or

(D) other clerical, bookkeeping, accounting, statistical, or similar functions performed by a savings association;

invest in a corporation organized in any state to perform those functions for two (2) or more savings associations, each of which owns a portion of the capital stock of the corporation. The total investment of a savings association under this subdivision may not exceed ten percent (10%) of the capital and surplus of the savings association. A savings association may not invest in this type of corporation unless the corporation furnishes assurances to the department that it will subject itself to examination by the department to the same extent as if the services were performed by the savings association.

(13) Lend money to other savings associations:

(A) the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(B) that are incorporated and operating under the laws of any state or of the United States.

(14) Borrow money and mortgage or pledge its property to secure payment.

(15) Issue subordinated notes or debentures.

(16) Assess and collect interest, fees, and other charges.

(17) Insure its deposit accounts with the Federal Deposit Insurance Corporation or its successor.

(18) Act as an agent for the United States or its instrumentalities.

(19) Accept property for safe keeping or escrow.

(20) Rent or lease safe deposit boxes.

(21) Issue and sell checks, drafts, money orders, and other instruments for the transmission or payment of money.

(22) Exercise all the powers that:

(A) are incidental and proper; or

(B) may be necessary and usual;

in carrying on the business of the savings association.

(23) Purchase or construct buildings, hold legal title to the buildings, and lease the buildings for public purposes to municipal corporations or other public authorities that have resources sufficient to make payment of all rentals as they become due. Each lease agreement entered into under this subdivision must provide that, upon expiration, the lessee will become the owner of the building.

(24) Open or establish automated teller machines at any location. An automated teller machine opened or established under this subdivision may be owned and operated individually or jointly on a cost sharing or fee basis.

(25) Act:

(A) in any fiduciary capacity in which a bank or trust company is permitted to act under this title; and

(B) as an agent for the sale of real estate, without bond or other security.

(26) Accept and maintain demand deposit accounts if the savings association is insured by the Federal Deposit Insurance Corporation or its successor.

(27) Without the approval of the department, to the extent authorized by the board of directors of the savings association, establish or maintain agencies that:

(A) only service and originate, but do not approve, loans and contracts; or

(B) manage or sell real estate owned by the savings association.

An agency established or maintained under this subdivision may offer any services not referred to in this subdivision with the approval of the department, except for accepting payment on savings accounts. An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the savings association.

(b) Subject to any limitations or restrictions that the department may impose by rule or policy, a savings association may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the savings association's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the savings association's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a national bank may purchase or hold under 12 U.S.C. 24 (Seventh).

*As added by P.L.193-1997, SEC.2. Amended by P.L.258-2003, SEC.30; P.L.10-2006, SEC.79 and P.L.57-2006, SEC.79; P.L.89-2011, SEC.73.*

### **IC 28-15-2-1.5**

#### **Profit or commission on sales or purchases; necessity of specific authorization; surcharge**

Sec. 1.5. (a) Except for interest at the legal rate on a loan or advancement, a savings association may not, directly or indirectly, receive a profit or commission from the sale to or purchase from an estate, a guardianship, or a trust of which the savings association is the fiduciary unless the profit or commission is authorized by agreement with the creator of the trust or a court with jurisdiction over the estate, guardianship, or trust.

(b) A savings association that receives a profit or commission in violation of subsection (a) shall be surcharged an amount equal to the profit or commission. In addition, a court with jurisdiction over the estate, guardianship, or trust may remove the savings association as the fiduciary.

*As added by P.L.192-2003, SEC.8.*

### **IC 28-15-2-2**

#### **Request to exercise rights and privileges granted federal savings associations; appeal**

Sec. 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 savings associations domiciled in Indiana.

(b) Subject to this section, savings associations may exercise the rights and privileges that are granted to federal savings associations.

(c) A savings association that intends to exercise any rights and privileges that are:

- (1) granted to federal savings associations; but
- (2) not authorized for savings associations under:
  - (A) the Indiana Code (except for this section); or
  - (B) a rule adopted under IC 4-22-2;

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

(d) The department shall promptly notify the requesting savings association of its receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings association 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.

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

- (1) federal savings associations in Indiana do not possess the requested rights and privileges;
- (2) the exercise of the requested rights and privileges by the savings association would adversely affect the safety and soundness of the savings association;
- (3) the exercise of the requested rights and privileges by the savings association 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 savings association.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings association letter raises issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings association may exercise the requested rights and privileges only if the savings association 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 savings association'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.

(g) The exercise of rights and privileges by a savings association in compliance with and in the manner authorized by this section does not constitute a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) If a savings association receives approval to exercise the requested rights and privileges granted to national savings associations domiciled in Indiana, the department shall determine by order whether all savings associations 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 savings associations will not:

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

(i) If the department denies the request of a savings association under this section to exercise any rights and privileges that are granted to national savings associations, the company may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings association is located.

*As added by P.L.193-1997, SEC.2. Amended by P.L.73-2004, SEC.44; P.L.213-2007, SEC.105; P.L.217-2007, SEC.103;*

*P.L.35-2010, SEC.206.*

**IC 28-15-2-3**

**Denial of rights and privileges; appeal**

Sec. 3. If the department denies the request of a savings association under section 2 of this chapter to exercise any rights and privileges that are granted to federal savings associations, the savings association may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings association is located. In an appeal under this section, the court shall determine the matter de novo.

*As added by P.L.193-1997, SEC.2.*

### **IC 28-15-3**

#### **Chapter 3. Powers and Duties of Deposit Associations**

### **IC 28-15-3-1**

#### **Applicability of statutes relating to share account associations**

Sec. 1. Deposit associations:

- (1) continue to possess all the rights, powers, privileges, and immunities afforded by IC 28-1 and any other statutes relating to share account associations; and
- (2) are subject to all the duties and obligations imposed upon share account associations by IC 28-1 or other statutes relating to share account associations.

*As added by P.L.193-1997, SEC.2.*

### **IC 28-15-3-2**

#### **Share account association; conversion to deposit association**

Sec. 2. A share account association may convert to a deposit association by amending its articles of incorporation in accordance with IC 28-13-14.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-4**

### **Chapter 4. Deposit Accounts**

#### **IC 28-15-4-1**

##### **Depositors**

Sec. 1. A person becomes a depositor when the person is accepted by the savings association.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-4-2**

##### **Terms and conditions**

Sec. 2. The board of directors of a savings association may determine the terms and conditions of accepting deposits and making withdrawals.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-4-3**

##### **Assessable amount**

Sec. 3. All deposit accounts in a mutual association are assessable only to the extent of their withdrawal value.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-4-4**

##### **Eligible investments for trust funds**

Sec. 4. (a) Deposit accounts are eligible investments for trust funds administered by a savings association.

(b) As a fiduciary, a savings association must comply with the provisions of IC 30-4-3-7.

(c) A fiduciary has all rights and privileges of a member of a mutual savings association except the right to hold office or serve on the board of the savings association.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-5**

### **Chapter 5. Withdrawal of Deposit Accounts**

#### **IC 28-15-5-1**

##### **Advance notice**

Sec. 1. A savings association may require advance notice of withdrawal.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-5-2**

##### **Depositor; status after withdrawal request**

Sec. 2. A member who has made a deposit withdrawal request does not cease to be a depositor until the request is paid.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-5-3**

##### **Methods of withdrawing deposits**

Sec. 3. All persons, regardless of age, may become depositors in a savings association and shall be subject to the same duties and liabilities respecting their deposits. Whenever a deposit is accepted by a savings association 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 savings association 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.8.*

**IC 28-15-6**

Chapter 6. Lending Limits

**IC 28-15-6-1**

**Limits to single borrowers**

Sec. 1. The following limits apply to the loans that a savings association may make to one (1) borrower:

(1) Loans that a savings association may make to one (1) borrower are restricted by the provisions of 12 U.S.C. 84 and 12 CFR 32.

(2) Notwithstanding subdivision (1), a savings association may loan to one (1) borrower no more than the lesser of:

(A) an amount equal to four percent (4%) of the assets of the savings association; or

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

(3) Notwithstanding subdivisions (1) and (2), a savings association may make loans to one (1) borrower to develop domestic residential housing units in an amount equal to or less than thirty percent (30%) of the savings association's unimpaired capital and surplus if:

(A) the final purchase price of each single family dwelling unit whose development is financed under this section does not exceed five hundred thousand dollars (\$500,000);

(B) loans made under this subdivision to all borrowers do not in the aggregate exceed one hundred fifty percent (150%) of the savings association's unimpaired capital and surplus; and

(C) the loans made under this subdivision comply with the applicable loan to value requirements that apply to federal savings associations.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-7**

Chapter 7. Loans on Deposit Accounts

**IC 28-15-7-1**

**Note and pledge required**

Sec. 1. Each deposit account loan of a savings association must be evidenced by a note and a pledge of the deposit account.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-8**

### **Chapter 8. Other Types of Loans**

#### **IC 28-15-8-1**

##### **Transactions regarding interests in certain loans**

Sec. 1. A savings association may make, buy, sell, or hold interests in the following loans:

- (1) Mobile home loans.
- (2) Real estate mortgage loans on real property or leasehold improvements insured or guaranteed by any state of the United States, the United States government, or any of the agencies or government sponsored enterprises of the United States government.
- (3) Loans for construction and development of residential or commercial property.
- (4) Secured or unsecured consumer loans or leases.
- (5) Secured or unsecured commercial loans or leases.
- (6) Education loans.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-8-2**

##### **Loans on security of certain property interests**

Sec. 2. (a) Subject to such additional limitations as the department may prescribe, savings associations may make loans on the security of any of the following:

- (1) Real estate.
- (2) A leasehold or subleasehold interests.
- (3) An assignment or transfer of stock certificates or other evidence of the borrower's ownership interest in a corporation formed for the cooperative ownership of real estate.

(b) A savings association may make loans secured by real estate in compliance with 12 U.S.C. 1828(O) as implemented by 12 CFR 365.

(c) Real estate appraisals shall be performed concerning loans authorized by this section in compliance with 12 CFR 323.

*As added by P.L.193-1997, SEC.2.*



**IC 28-15-9****Chapter 9. Formation of and Investment in Service Corporations****IC 28-15-9-1****Limitations**

Sec. 1. A savings association may form and invest in a service corporation to the same extent and with the same limitations as a federally chartered savings association, as provided for by 12 CFR 559.

*As added by P.L.193-1997, SEC.2. Amended by P.L.215-1999, SEC.15.*

**IC 28-15-9-2****Notice of establishment or acquisition of or new activity through service corporation**

Sec. 2. A savings association shall notify the department:

- (1) not less than thirty (30) days before the establishment or acquisition of any service corporation; and
- (2) not less than thirty (30) days before the commencement of any new activity through a service corporation.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-10**

### **Chapter 10. Interstate Acquisition of Savings Associations**

#### **IC 28-15-10-1**

##### **"Foreign savings association" defined**

Sec. 1. As used in this chapter, "foreign savings association" means:

- (1) a savings association:
  - (A) that is organized or reorganized under the laws of any other state or territory of the United States, including the District of Columbia; and
  - (B) whose home office is located outside Indiana; or
- (2) a federal savings association whose home office is located outside Indiana.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-2**

##### **"Foreign savings association holding company" defined**

Sec. 2. As used in this chapter, "foreign savings association holding company" means a savings association holding company whose principal place of business is located outside Indiana.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-3**

##### **"Indiana savings association" defined**

Sec. 3. As used in this chapter, "Indiana savings association" means:

- (1) a savings association whose home office is located in Indiana; or
- (2) a federal savings and loan association whose home office is located in Indiana.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-4**

##### **"Indiana savings association holding company" defined**

Sec. 4. As used in this chapter, "Indiana savings association holding company" means a savings association holding company whose principal place of business is located in Indiana.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-5**

##### **Indiana savings association holding company; acquisitions by**

Sec. 5. (a) An Indiana savings association holding company is entitled to acquire one (1) or more:

- (1) foreign savings associations; or
- (2) foreign savings association holding companies;

after the department grants the application of the holding company for approval of the proposed acquisition.

(b) The department shall approve or deny an application for approval of a proposed acquisition under this section not more than

ninety (90) days after the department receives the application, unless the department needs additional time for consideration of the application.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-6**

##### **Foreign savings association holding company; acquisitions by**

Sec. 6. (a) A foreign savings association holding company is entitled to acquire one (1) or more:

(1) Indiana savings associations; or

(2) Indiana savings association holding companies;

after the department grants the application of the foreign savings association holding company for approval of the proposed acquisition.

(b) The department shall approve or deny an application for approval of a proposed acquisition under this section not more than ninety (90) days after the department receives the application, unless the department needs additional time for consideration of the application.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-7**

##### **Acquisition of foreign savings associations and holding companies**

Sec. 7. (a) The acquisition of a foreign savings association by an Indiana savings association holding company under section 5 of this chapter includes the acquisition of all the branches owned by the foreign savings association.

(b) The acquisition of the holding company of a foreign savings association by an Indiana savings association holding company includes the acquisition of:

(1) all the subsidiaries of the acquired foreign savings association holding company; and

(2) all the branches of the subsidiaries of the foreign savings association holding company.

(c) After an acquisition under section 5 of this chapter:

(1) an acquiring Indiana savings association;

(2) an acquired foreign savings association; and

(3) the subsidiaries of an acquired foreign savings association holding company;

have the same branching rights as a foreign savings association.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-8**

##### **Acquisition of Indiana savings associations**

Sec. 8. (a) The acquisition of an Indiana savings association under section 6 of this chapter includes the acquisition of all subsidiaries of the Indiana savings association.

(b) The acquisition of the holding company of an Indiana savings association under this chapter includes the acquisition of:

(1) the Indiana savings association subsidiaries of the acquired

- Indiana savings association holding company; and
- (2) all branches of the Indiana savings association subsidiaries of the acquired Indiana savings association holding company.
- (c) After an acquisition under section 6 of this chapter:
  - (1) an acquiring foreign savings association;
  - (2) an acquired Indiana savings association; and
  - (3) the subsidiaries of an acquired Indiana savings association holding company;

have the same branching rights as an Indiana savings association.  
*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-10-9**

##### **Applications for acquisitions; required filings**

Sec. 9. (a) If federal law requires a savings association or savings association holding company to submit an application to a federal agency before an acquisition under this chapter, the savings association or savings association holding company must comply with federal law and file with the department:

- (1) a copy of all papers filed with the federal agency; and
- (2) when issued, a copy of the approval or other action taken by the federal agency regarding the application.

(b) For purposes of an acquisition under this chapter, compliance with federal law requiring the submission and approval of a permit authorizing the acquisition constitutes compliance with the requirements of this chapter.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-11**

### **Chapter 11. Alternative Mortgage Loans of Savings Associations**

#### **IC 28-15-11-1**

##### **"Adjustable mortgage loan"**

Sec. 1. As used in this chapter, "adjustable mortgage loan" means a loan:

- (1) whose terms permit adjustments to the interest rate that:
  - (A) reflect the movement of the money cost index; and
  - (B) are implemented through changes in the monthly payment amounts, adjustments to the outstanding principal loan balance, or changes in the loan term; and
- (2) whose term does not exceed forty (40) years.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-2**

##### **"Alternative mortgage loan"**

Sec. 2. As used in this chapter, "alternative mortgage loan" means a mortgage loan authorized by this chapter.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-3**

##### **"Association"**

Sec. 3. As used in this chapter, "association" refers to a savings association (as defined in IC 28-15-1-11).

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-4**

##### **"Federally chartered association"**

Sec. 4. As used in this chapter, "federally chartered association" means a savings association incorporated under regulations of the Office of Thrift Supervision or its successor under the Home Owners' Loan Act of 1933 (12 U.S.C. 1464).

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-5**

##### **"Graduated payment mortgage loan"**

Sec. 5. As used in this chapter, "graduated payment mortgage loan" or "GPM loan" means a mortgage loan under which:

- (1) the scheduled repayments begin at a level lower than that of a comparable standard mortgage loan and rise to a point determined by the loan documents; and
- (2) the period of the rise, the rate of increase, and the interest rate are fixed in the loan documents.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-6**

##### **"Loan documents"**

Sec. 6. As used in this chapter, "loan documents" means the documents evidencing a loan transaction.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-7**

##### **"Money cost index"**

Sec. 7. As used in this chapter, "money cost index" means any of the following:

- (1) The weekly net yield purchase quotations of conventional program home mortgages published by the Federal Home Loan Mortgage Corporation.
- (2) The monthly national average mortgage rate index for all major lenders for the purchase of previously occupied single-family homes of the Office of Thrift Supervision or its successor.
- (3) The average cost to savings associations of funds insured by the Federal Deposit Insurance Corporation, either for all Federal Home Loan Bank districts or for a particular district or districts, as computed semiannually and published by the Office of Thrift Supervision or its successor and made available in news releases.
- (4) The monthly average of weekly auction rates on United States Treasury bills with a maturity of three (3) months or six (6) months, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board each month.
- (5) The monthly average yield on United States Treasury securities adjusted to a constant maturity of one (1), two (2), three (3), or five (5) years, as published in the Federal Reserve Bulletin and made available by the Federal Reserve Board each month.
- (6) Any rate that is designated by the department.

*As added by P.L.193-1997, SEC.2. Amended by P.L.89-2011, SEC.74.*

#### **IC 28-15-11-8**

##### **"Mortgage loan"**

Sec. 8. As used in this chapter, "mortgage loan" means:

- (1) a loan:
  - (A) secured by a mortgage on real estate that is improved by a dwelling intended for occupancy by at least one (1) and not more than four (4) families; and
  - (B) that includes:
    - (i) the note;
    - (ii) the mortgage; and
    - (iii) any other documents constituting the loan transaction;or
- (2) a loan:
  - (A) secured by a mortgage on real estate that is improved by a combination home and business building; and
  - (B) that includes:
    - (i) the note;
    - (ii) the mortgage; and

(iii) any other documents constituting the loan transaction.  
*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-9**

##### **"Reverse annuity mortgage loan" or "RAM loan"**

Sec. 9. As used in this chapter, "reverse annuity mortgage loan" or "RAM loan" means a mortgage loan that:

- (1) provides periodic payments to the borrower based on the accumulated equity in the real estate securing the loan, with payments made directly by the lender or through the purchase of an annuity from an insurance company; and
- (2) becomes due either:
  - (A) at a specified date; or
  - (B) on the occurrence of a specified event, such as a sale of the real estate securing the loan or the death of the borrower.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-10**

##### **"Rollover mortgage"**

Sec. 10. As used in this chapter, "rollover mortgage" means a mortgage loan that:

- (1) is secured by a first mortgage on real estate improved by:
  - (A) a dwelling intended for occupancy by at least one (1) and not more than four (4) families; or
  - (B) a combination home and business building; and
- (2) may be subject to rate adjustments at regularly scheduled times.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-11**

##### **"Standard mortgage loan"**

Sec. 11. As used in this chapter, "standard mortgage loan" means a loan under which the principal and interest are paid in equal monthly installments for a period of not more than forty (40) years.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-12**

##### **Regulation of graduated payment mortgage loans**

Sec. 12. (a) Graduated payment mortgage (GPM) loans are subject to the following:

- (1) Interest only may be paid for five (5) years, or increases in mortgage payments may be made for periods of not more than ten (10) years within the following maximum rates of increase:
  - (A) Seven and one-half percent (7.5%) annually for five (5) years or less.
  - (B) Six and one-half percent (6.5%) annually for six (6) years.
  - (C) Five and one-half percent (5.5%) annually for seven (7) years.
  - (D) Four and one-half percent (4.5%) annually for eight (8) years.

years.

(E) Three and one-half percent (3.5%) annually for nine (9) years.

(F) Three percent (3%) annually for ten (10) years.

(2) Payment amounts may be changed annually only after one

(1) year following the first regular loan payment.

(b) The borrower may convert a GPM loan into a standard mortgage loan with the same interest rate and maturity if the borrower is qualified under the normal underwriting standards of the savings association. A savings association may not assess penalties for any conversion.

*As added by P.L.193-1997, SEC.2.*

### **IC 28-15-11-13**

#### **Repealed**

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

### **IC 28-15-11-14**

#### **Regulation of adjustable mortgage loans**

Sec. 14. Adjustable mortgage loans are subject to the following:

(1) Adjustments to the principal loan balance are permissible only if:

(A) the initial payment amount is sufficient to fully amortize the loan at the beginning of the loan term; and

(B) the payment amount is adjusted at least every five (5) years to amortize the loan at the current interest rate and principal loan balance over the remaining term of the loan.

(2) Prepayment in full or in part shall be allowed without penalty.

(3) Adjustments to the interest rate must correspond directly to the movement of the money cost index, subject to such rate-adjustment limitations, if any, as a savings association may provide. For the purposes of this subdivision:

(A) the initial money cost index value is the value of the money cost index most recently available within six (6) months before the date of the closing of the loan; and

(B) the interest rate at adjustment shall reflect the difference, in reference to the interest rate of the loan on the date of closing, between the initial money cost index value and either:

(i) the money cost index value most recently available as of the date of rate adjustment, if the payment is not simultaneously adjusted; or

(ii) the money cost index value most recently available as of the date of notification of a payment adjustment.

However, when the movement of the money cost index permits an interest rate increase, the savings association may decline to increase the interest rate by the indicated amount. The savings association may decrease the interest rate at any time.

(4) The borrower may not be charged any costs or fees in



connection with regularly scheduled adjustments to:

- (A) the interest rate;
- (B) the payment;
- (C) the outstanding principal loan balance; or
- (D) the loan term.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-15**

##### **Restrictions on graduated payment adjustable mortgage loans**

Sec. 15. A savings association may make graduated payment adjustable mortgage loans subject to the requirements set forth in section 14 of this chapter, except that:

- (1) the amount of the scheduled monthly payment at the beginning of the loan may be insufficient to fully amortize the loan; and
- (2) during a period of not more than ten (10) years beginning with the closing date of the loan, the scheduled payments must rise sufficiently to amortize the loan at the then existing interest rate and principal balance over the then remaining loan term, and thereafter the monthly payments must be adjusted every five (5) years to a level sufficient to fully amortize the loan.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-16**

##### **Regulation of rollover mortgage loans**

Sec. 16. Rollover mortgage loans are subject to the following:

- (1) At each scheduled adjustment time, if the loan is not in default, the lender shall make rate adjustments available for the amount of the outstanding loan.
- (2) In adjusting the loan, administrative expenses may not be charged to the borrower.
- (3) Adjustments must be at least one (1) year apart.
- (4) The lender may not charge a penalty or other assessment for the prepayment of the loan.
- (5) The lender and the borrower may agree to increase or decrease the interest rate applicable to the outstanding balance of the loan at each adjustment.
- (6) The lender may grant the borrower the option of extending the amortization period for purposes of calculating monthly payments on the loan in accordance with the following rules:
  - (A) The extension of the amortization period may equal up to one-third (1/3) of the original amortization period, regardless of whether this extends the amortization period beyond thirty (30) years.
  - (B) To the extent of any extension of the amortization period, the amortization period will be reduced upon a subsequent downward adjustment in the interest rate.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-11-17**

**Alternative mortgage loans; required disclosures**

Sec. 17. (a) Any statement, disclosure, or notification required by this chapter with respect to an alternative mortgage loan may be made in the form prescribed by the Office of Thrift Supervision or its successor for a similar alternative mortgage loan made by a federally chartered savings association.

(b) In addition to the disclosures required by this chapter, the department may adopt rules under IC 4-22-2 or policies that require additional disclosures for alternative mortgage loans.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-11-18****Regulation of alternative mortgage loans**

Sec. 18. (a) Subsections (b) and (c) apply to alternative mortgage loans and to similar loans authorized under federal law or regulations for a federally chartered savings association.

(b) Any Indiana laws prohibiting:

- (1) the compounding of interest;
- (2) capitalizing interest because contracted loan repayments create negative amortization; or
- (3) paying interest on interest;

do not apply. For purposes of the application of IC 24-4.5-3 to a loan described in subsection (a), "principal" (as defined in IC 24-4.5-3-107(3)) includes interest unpaid and added to principal because the contracted repayments under the loan do not cover the entire interest due at any time.

(c) The lien of the loan provided by the mortgage and the loan documents:

- (1) includes all advances or additions to principal of either principal or interest that are made in accordance with the terms of the loan documents; and
- (2) is superior to any lien on the property created after the date the mortgage securing the loan is recorded, other than taxes and special property or taxing district assessments.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-12**

Chapter 12. Voting Rights of Members

**IC 28-15-12-1**

**Mutual savings association; member entitled to one vote**

Sec. 1. (a) In a mutual savings association, each member is entitled at every members' meeting to cast one (1) vote for each:

(1) one hundred dollars (\$100); or

(2) fraction of one hundred dollars (\$100);

of the total amount paid in on all share or deposit accounts standing in the member's name on the books of the mutual savings association.

(b) Each borrowing member of a mutual savings association who is not a depositor or owner of a share account is entitled at a members' meeting to cast one (1) vote, if the articles of incorporation of the mutual savings association provide the borrowing member the right to vote.

(c) A member of a mutual savings association may not, except as proxy, cast more than fifty (50) votes at an election held by the mutual savings association.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-13**

## Chapter 13. Applicability of Corporate Governance Laws

**IC 28-15-13-1****References to shareholders and shareholders' meetings**

Sec. 1. A reference in IC 28-13-5, IC 28-13-6, or IC 28-1-7 to shareholders and shareholders' meetings means, as to a mutual savings association, members and members' meetings.

*As added by P.L.193-1997, SEC.2.*

## **IC 28-15-14**

### **Chapter 14. Merger or Consolidation With Federal Savings and Loan Association**

#### **IC 28-15-14-1**

##### **Vote required; compliance with laws**

Sec. 1. (a) A savings association may be:

- (1) merged or consolidated with; or
- (2) converted into;

a federal savings and loan association, under the charter of the federal savings and loan association or under a new charter issued to the converted association or the merged or consolidated association, upon a vote of fifty-one percent (51%) or more of the votes cast at a legal meeting of the shareholders and members of the state chartered savings association called to consider the proposed merger, consolidation, or conversion.

(b) A merger, consolidation, or conversion under this section must be accomplished:

- (1) in compliance with the laws of the United States relating to the merger, consolidation, or conversion; and
- (2) upon terms and conditions prescribed or approved by the Office of Thrift Supervision or its successor.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-14-2**

##### **Filing requirements**

Sec. 2. (a) If a savings association:

- (1) merges with;
- (2) consolidates with; or
- (3) is converted into;

a federal savings and loan association, the savings association shall file with the secretary of state three (3) copies of a certificate executed by a duly constituted federal authority showing the merger, consolidation, or conversion.

(b) Upon the payment of the fees prescribed by law, the secretary of state shall:

- (1) note the filing upon each of the copies;
- (2) retain one (1) copy in the secretary's office; and
- (3) return two (2) copies to the association.

(c) One (1) of the copies returned to a savings association under subsection (b) shall be filed by the savings association with the department and the other copy shall be filed with the recorder of the county in which the principal office of the savings association is located.

(d) Upon completion of the filings required by this section, the savings association ceases to be a corporation under Indiana law, except as provided in section 4 of this chapter.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-14-3**

**Effect on resulting federal savings and loan association of merger, consolidation, or conversion**

Sec. 3. (a) Upon the effective date of a merger, consolidation, or conversion under sections 1 and 2 of this chapter, all of the assets and property of the state chartered savings association of every kind and character, including:

- (1) real, personal, and mixed property;
- (2) tangible and intangible property; and
- (3) choses in action, rights, and credits that:
  - (A) the savings association owns; or
  - (B) would inure to the savings association;

shall immediately, by operation of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the federal savings and loan association.

(b) A federal savings and loan association referred to in subsection (a) shall have, hold, and enjoy the assets and property of the state chartered savings association after a merger, consolidation, or conversion under sections 1 and 2 of this chapter in its own right, as fully and to the same extent that the assets and property were possessed, held, and enjoyed by the state chartered savings association before the merger, consolidation, or conversion.

(c) After a merger, consolidation, or conversion under sections 1 and 2 of this chapter, the federal savings and loan association is considered a continuation of the entity and identity of the state chartered savings association, and all of the rights and obligations of the savings association remain unimpaired.

(d) The federal association, at the time of the taking effect of the merger, consolidation, or conversion under sections 1 and 2 of this chapter, shall succeed to all of the rights and obligations and the duties and liabilities connected with the state chartered savings association.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-14-4**

**Conversion of federal savings and loan association to state chartered savings association**

Sec. 4. (a) Subject to regulations prescribed by the Office of Thrift Supervision or its successor, a federal savings and loan association located in Indiana, by resolution approved by its board of directors and adopted by a vote of fifty-one percent (51%) or more of the votes cast at any annual meeting or at any special meeting of its members called to consider the action, may convert itself into a state chartered savings association under this article.

(b) A resolution referred to in subsection (a), when adopted by the members of a federal savings and loan association, must:

- (1) designate the names and the number of the directors who will serve as directors of the savings association after the conversion takes effect; and
- (2) authorize the directors to execute articles of incorporation.

(c) The articles of incorporation executed under this section must

include the contents required by IC 28-12-2-1 except that, instead of disclosing the name and address of each incorporator as required by IC 28-12-2-1(4), the articles must:

- (1) indicate that the savings association is incorporated by conversion of a federal savings and loan association into a state chartered savings association; and
- (2) state the name of the federal savings and loan association converted under this section.

(d) The department must receive from the federal savings and loan association:

- (1) three (3) copies of the resolution, certified by the secretary or assistant secretary of the federal savings and loan association; and
- (2) the articles of incorporation, in triplicate, signed and acknowledged by the directors designated under subsection (b)(1).

(e) The department shall approve or disapprove the proposed conversion of a federal savings and loan association into a state chartered savings association under this section. The department may not approve a proposed conversion unless the department, after appropriate investigation or examination, finds all of the following:

- (1) That the state chartered savings association resulting from the conversion will operate in a safe, sound, and prudent manner.
- (2) That the proposed charter conversion will not result in a state chartered savings association that has:
  - (A) inadequate capital;
  - (B) unsatisfactory management; or
  - (C) poor earnings prospects.
- (3) That the management or other principals of the savings association are qualified by character and financial responsibility to control and operate in a legal and proper manner the proposed state chartered savings association.
- (4) That the interests of the depositors, the creditors, and the public generally will not be jeopardized by the proposed charter conversion.

(f) If the department approves the resolution and articles of incorporation submitted under subsection (d), the department shall:

- (1) indicate its approval on the resolution and articles of incorporation in the manner prescribed by IC 28-12-5-1; and
- (2) present the articles of incorporation to the secretary of state.

(g) If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall:

- (1) endorse the secretary's approval on the copies of the articles of incorporation;
- (2) when all fees required by law have been paid:
  - (A) file one (1) copy of the articles of incorporation in the secretary's office; and
  - (B) issue a certificate of incorporation to the savings association; and

(3) return the certificate of incorporation and two (2) copies of the articles of incorporation to the directors of the savings association designated under subsection (b)(1).

(h) The conversion of a federal savings and loan association into a state chartered savings association under this section is effective when the secretary of state issues the certificate of incorporation under subsection (g). However, before the savings association may transact business under this article or incur indebtedness, except indebtedness that is incidental to its organization, one (1) of the copies of its articles of incorporation bearing the endorsement of the approval of the department and of the secretary of state must be filed for record with the recorder of the county in which the principal office of the savings association is located.

*As added by P.L.193-1997, SEC.2.*

#### **IC 28-15-14-5**

##### **Effect on resulting state chartered savings association of conversion from federal savings and loan association**

Sec. 5. (a) Upon the effective date of the conversion of a federal savings and loan association into a state chartered savings association under section 4 of this chapter, all of the assets and property of the federal savings and loan association of every kind and character, including:

- (1) real, personal, and mixed property;
- (2) tangible and intangible property; and
- (3) choses in action, rights, and credits that:
  - (A) the savings and loan association owns; or
  - (B) would inure to the savings and loan association;

shall immediately, by operation of law and without any conveyance or transfer, and without any further act or deed, be vested in and become the property of the state chartered savings association.

(b) After the conversion of a federal savings and loan association into a state chartered savings association under section 4 of this chapter:

- (1) the state chartered savings association shall have, hold, and enjoy the assets and property of the federal savings and loan association in its own right, as fully and to the same extent that the assets and property were possessed, held, and enjoyed by the federal savings and loan association before the conversion; and
- (2) the state chartered savings association is considered a continuation of the entity and identity of the federal savings and loan association, and all of the rights and obligations of the federal savings and loan association remain unimpaired.

(c) When the conversion of a federal savings and loan association into a state chartered savings association under section 4 of this chapter takes effect, the state chartered savings association succeeds to all of the rights and obligations and the duties and liabilities connected with the federal savings and loan association.

*As added by P.L.193-1997, SEC.2.*



**IC 28-15-14-6****Organization of new savings association; bylaws**

Sec. 6. After the conversion of a federal savings and loan association into a state chartered savings association under section 4 of this chapter, the organization of the savings association shall be completed in the manner provided by IC 28-12, except that bylaws for the savings association:

(1) may be adopted by the members of the federal association when the members adopt the resolution authorizing the conversion; and

(2) may become effective upon the issuance of the certificate of incorporation under section 4(f) of this chapter.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-15**

Chapter 15. Loans to Insiders

**IC 28-15-15-1**

**Extensions of credit to officers, directors, and shareholders**

Sec. 1. A savings association may extend credit to officers, directors, and principal shareholders of the savings association in compliance with 12 CFR 215.

*As added by P.L.193-1997, SEC.2.*

**IC 28-15-16****Chapter 16. Applicability of the Federal Reserve Act****IC 28-15-16-1****Applicability**

Sec. 1. For purposes of this article, a savings association that is not a member of the Federal Reserve System is subject to Sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) to the same extent and in the same manner as if the savings association were a member of the Federal Reserve System.

*As added by P.L.258-2003, SEC.31.*

**IC 28-15-16-2****Violations**

Sec. 2. A violation of Section 23A or 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) by a savings association or a subsidiary constitutes a violation of this chapter.

*As added by P.L.258-2003, SEC.31.*