

Has Spring Finally Arrived for Indiana Financial Institutions and their Deposit Accounts?

Banking Brief: Financial Services Insights

By John Tanselle and Larry Tomlin on March 15, 2024

This past week, Indiana Governor Eric Holcomb signed H.B. 1284 and S.B. 188 into law, each of which will become effective on July 1, 2024.

Indiana House Bill 1284

H.B. 1284 was authored in response to the recent Indiana Supreme Court holding in *Land v. IU Credit Union*. The new law offers respite to Indiana financial institutions struggling to amend their account agreements to include an alternative dispute resolution (“ADR”) provision. Specifically, H.B. 1284 provides the following:

- a deposit account agreement may be **changed** or **amended** from time to time, as allowed for by the deposit account agreement;
- “written notice” is a notice sent to the depositor, in writing, at least 30 calendar days before any change or amendment to the deposit account agreement becomes effective; and
- a depositor’s silence and continued use (or “maintenance”) of their deposit account after the effective date of any change or amendment to the deposit account agreement, constitutes prima facie evidence of the depositor’s intent to accept the change or amendment.

The Supreme Court in *Land* relied heavily on *Decker v. Star Financial Group, Inc.*, which took issue with whether the addition of new terms (like an ADR provision) was permissible under the account agreement. The use of the word “**change**” in H.B. 1284 now gives Indiana financial institutions the ability to make additions to their deposit account agreements, such as adding an ADR provision.

Indiana Senate Bill 188

S.B. 188 reduced the statute of limitation for when an action upon a deposit account must be brought from the original six (6) years to two (2) years, regardless of whether the action is brought by a depositor or a depository institution.

What this means for you

Under H.B. 1284, any Indiana financial institution interested in adding an ADR provision to its deposit account agreement may now do so in a more clear and simple fashion (*i.e.*, 30 days advance written notice of the change and the depositor's continued use of the account after the effective date of such change).

While we live in Indiana with fickle weather, maybe—at least for our deposit account agreements—spring has finally arrived.

We will continue to monitor new developments related to these matters.

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