

Insights

August Hoosier Banker: Compliance Connection with Partner Brett Ashton

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By: Brett J. Ashton

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Question 1: We encourage our customers to teach their children financial literacy at an early age, and offer savings accounts for minors when linked to a parent's or guardian's account. Recently a 16-year-old came into the branch and wanted to open his own checking and savings account, without his parents. Does Indiana law allow minors to hold their own accounts independent of parents or guardians?

Answer: Yes. Ind. Code § 28-1-23-16 provides: "All persons, regardless of age, may become depositors in a depository financial institution and shall be subject to the same duties and liabilities respecting their deposits."

Question 2: If minors are permitted to have their own accounts independent of parents or guardians, are there any restrictions on the kinds of products they can be offered through the accounts? For example, are they allowed to have their own debit cards?

Answer: Indiana Code § 28-1-23-16 provides: "Whenever a deposit is accepted by a depository financial institution in the name of any person, regardless of age, the deposit may be withdrawn by the depositor by check or other instrument in writing, or by electronic means through:

- Preauthorized direct withdrawal;
- An automated teller machine;
- A debit card;
- A transfer by telephone;
- A network, including the internet; or
- Any electronic terminal, computer, magnetic tape; or other electronic means."

While Indiana law allows minors to have their own debit cards, banks should check their agreements with their debit card providers to ensure there are no limitations on the use of the card by minors.

Furthermore, banks should apply the same degree of due diligence in opening deposit accounts for minors as they would for any other customer, including but not limited to all required Know Your Customer protocols.

Question 3 May minors also obtain loans without parents or guardians?

Answer: While a bank can choose to extend credit to a minor, Indiana law has long held that contracts entered into by a minor are voidable at the option of the minor while he or she remains a minor, or within a reasonable time after reaching majority.¹ This reflects the law's view that minors are not always competent to enter into contracts with adults and therefore are deserving of special protection.²

While it is rare for a minor to apply for credit, in the event your bank decides to make a loan to a borrower who is not yet 18 years of age, you should realize that the loan could become an unexpected gift, if your new borrower decides not to fulfill his or her obligations.

¹ See *Wiley v. Wilson*, 77 Ind. 596, 598 (1881); *Bowling v. Sperry*, 133 Ind.App. 692, 694, 184 N.E.2d 901, 902 (1962).

² *Fetters v. Fetters*, 26 N.E.3d 1016, 1022, Ind.App.

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