

**Senate Bill No. 1890**

CHAPTER 227

An act to amend Section 18266 of the Financial Code, relating to industrial loan companies.

[Approved by Governor July 20, 1996. Filed with Secretary of State July 22, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1890, Calderon. Industrial loan companies.

Existing law generally requires any loan or obligation, made or acquired by an industrial loan company, as specified, which loan or obligation is secured primarily by real property and has an outstanding principal balance of \$10,000 or more, to be secured by real property or personal property having a combined fair market value of at least 115% of the principal amount owing on the loan or obligation and on specified prior encumbrances.

This bill would instead provide that these loans shall be secured either by real property, or by real and personal property combined, having a fair market value of at least 110% of the principal amount owing on the loan and other encumbrances. The bill would also provide that the principal amount of private mortgage insurance may be included in making these calculations.

Existing law provides that certain loans may be secured by real property with a lower fair market value than otherwise required, subject to requirements that the Corporations Commissioner may impose.

This bill would provide that any loan or obligation saleable in the secondary market or owned for less than 90 days comes under these provisions, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 18266 of the Financial Code is amended to read:

18266. (a) Except as set forth in subdivisions (b) and (c), any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding that is secured primarily by real property and has an outstanding principal balance of ten thousand dollars (\$10,000) or more shall be secured by real property having a fair market value, or real property and personal property combined having a fair market value, at the time the loan or other obligation is made or acquired, of at least 110 percent of the principal amount owing on the loan or obligation and on prior encumbrances,



except nondelinquent tax liens, secured by the same real property with regard to loans secured solely by real property, or by both real property and personal property. Fair market value of the real property for purposes of this section shall be determined by a real property appraiser who meets the qualifications established pursuant to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, and any applicable regulations, guidelines, or policies thereunder.

(b) Subdivision (a) does not apply to:

(1) Any loan guaranteed in whole or in part by the Administrator of Veterans Affairs pursuant to the Servicemen's Readjustment Act of 1944 or any act of Congress supplementary or amendatory thereof.

(2) Any loan insured by the Federal Housing Administration pursuant to the National Housing Act or any act of Congress supplementary or amendatory thereof.

(c) Subject to all other provisions of subdivision (a) and any requirements the commissioner may impose by rule or order, the following loans may be secured by real property having a fair market value of less than 110 percent of the principal amount of the loan and prior encumbrances:

(1) Any loan made by an industrial loan company to facilitate the sale of real property owned by the industrial loan company resulting from foreclosure or receipt of a deed in lieu of foreclosure.

(2) Any loan renewed or modified by an industrial loan company pursuant to a clearly defined and well-documented program adopted by the board of directors of the industrial loan company to achieve orderly repayment of the loan or to maximize recovery of the loan.

(3) Any loan or obligation saleable in the secondary market. For purposes of this paragraph, "saleable in the secondary market" means saleable to a qualified institutional buyer, as evidenced by irrevocable commitments to buy by those qualified institutional buyers.

(4) Any loan or obligation owned for less than 90 days.

(d) In complying with the requirement of subdivision (a), an industrial loan company may include the principal amount of private mortgage insurance.

(e) Any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding that is secured solely by motor vehicles or other personal property shall be secured by that property having a fair market value at the time the loan or other obligation is made or acquired of at least 100 percent of the principal amount owing on the loan or obligation. The personal property held as security shall be of a class or kind that has been declared eligible by regulation of the commissioner.

