

## Senate Bill No. 433

### CHAPTER 190

An act to amend Sections 18145, 18165, and 18166 of, and to add Sections 18145.1 and 18165.1 to, the Financial Code, relating to industrial loan companies.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 433, Lewis. Industrial loan companies: branch office applications.

(1) Existing law permits an industrial loan company to establish and maintain one or more branch offices, upon approval of the Commissioner of Corporations and pursuant to a resolution of its board of directors.

This bill would authorize the commissioner to exempt any establishment and maintenance of a branch office of an industrial loan company from the approval requirement under certain conditions.

(2) Existing law provides that an industrial loan company may solicit and make loans and acquire obligations at a place of business other than designated in its certificate of authorization, by written request and written approval of the commissioner, without obtaining a certificate of authorization to conduct business at a branch office, as specified. Existing law also requires an industrial loan company to provide written notice to the commissioner and obtain his or her authorization if it desires to change its place of business to a street address other than that designated in its authorization.

This bill would authorize the commissioner to exempt an industrial loan company from these provisions under certain conditions.

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

SECTION 1. Section 18145 of the Financial Code is amended to read:

18145. Subject to Section 18145.1, when authorized by the commissioner as provided in this division, an industrial loan company, pursuant to a resolution of its board of directors, may establish and maintain one or more branch offices within the state.

SEC. 2. Section 18145.1 is added to the Financial Code, to read:

18145.1. (a) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in Section 18145 any establishment of an office or place of

business that the commissioner finds not necessary or appropriate to regulate under that section.

(b) In granting an exemption under this section, the commissioner may impose any conditions that the commissioner finds necessary or appropriate.

SEC. 3. Section 18165 of the Financial Code is amended to read:

18165. (a) Except as otherwise provided for in this division, an industrial loan company shall not transact business or make any loan provided for by this division at any other place of business than that designated in its certificate of authorization issued pursuant to Section 18101 or 18149, without having obtained the prior written approval of the commissioner.

(b) An industrial loan company may solicit and make loans and acquire obligations at a place of business other than designated in its certificate of authorization upon written request to and written approval of the commissioner, except as set forth in Section 18165.1, without obtaining a certificate of authorization to conduct business at a branch office pursuant to Article 4 (commencing with Section 18145), subject to the provisions of subdivision (d). The written request for approval to conduct business shall be accompanied by a processing fee of two hundred dollars (\$200) for each place of business and shall include the following:

(1) The proposed location of the place of business.

(2) A description of the industrial loan company's proposed plan of business, including a description of the manner and extent to which the industrial loan company proposes to direct and supervise the place of business.

(3) The character, business qualifications, and other experience of the proposed officers and managers directing the line of business for which authorization is requested.

(4) If the place of business is to be located outside of this state, a description of the regulation of the place of business by the state of the United States where the place of business is proposed to be located, including:

(A) A summary of the laws, administrative policies, and rules or regulations of the state relating to the proposed establishment and operation of the place of business.

(B) The name, address, and telephone number of the state agency having jurisdiction over the proposed establishment and operation of the place of business.

(C) A description of the extent and manner in which the establishment and operation of the place of business will be regulated by the state agency.

(D) Whether or not any law, administrative policy, or rule or regulation of the state of the United States where the place of business is proposed to be located would prohibit the commissioner from, or restrict the commissioner in, examining or regulating the place of



business, and, if so, a citation to and summary of the law, administrative policy, rule, or regulation.

(5) Any other information bearing on the proposal that, in the opinion of the commissioner, may be relevant.

(c) The commissioner shall approve the request made pursuant to subdivision (b) within 30 days after filing unless the commissioner has ascertained that the company has failed to show any of the following:

(1) Compliance with all applicable requirements of subdivision (b).

(2) That the proposed plan of business would not violate any of the laws or the regulations of the state in which the office is proposed to conduct its business.

(3) That the company has adequate internal controls to manage the conduct of the business proposed to be conducted.

(4) That the company has a person with the necessary business qualifications, experience, or ability to direct and manage the operations of the proposed plan of business.

(d) An industrial loan company that has given notice or has been approved by the commissioner pursuant to subdivision (b) to solicit and make loans and acquire obligations at a place of business other than designated in its certificate of authorization shall comply with the following:

(1) No investment certificates shall be solicited, offered, or sold at the place of business.

(2) Loan files for loans originating at the place of business shall be retained at the main or licensed branch location of the industrial loan company, and all loans originating at the place of business shall be coded in a manner so as to easily identify that place of business.

(3) The place of business shall not be identified in any manner as a branch location or as a licensed location of the industrial loan company.

(4) If the place of business is outside of this state, the industrial loan company shall, not less than five business days before commencing business at that place of business, file with the commissioner a report stating that the industrial loan company has complied with all laws of that state applicable to the establishment and operation of the place of business, and which contains a copy of any document issued by the state agency having jurisdiction over the proposed establishment and operation of the place of business authorizing the industrial loan company to establish the place of business.

(5) All books, accounts, papers, records, and files of the place of business shall, upon request, be made available to the commissioner or the commissioner's representatives in this state within the time specified in the request.

(6) Any other conditions and limitations the commissioner may require.



(e) An industrial loan company that opens a place of business for which approval is required under subdivision (b) without first obtaining the commissioner's written approval shall be liable for a civil penalty of one hundred dollars (\$100) for every day during which the place of business is maintained without approval.

(f) The commissioner may by rule, order, or regulation permit loans to be made or entered into and loans and obligations solicited and acquired at places other than designated by an industrial loan company in its certificate of authorization if those loans can be so made consistent with the purposes of the Industrial Loan Law.

SEC. 4. Section 18165.1 is added to the Financial Code, to read:

18165.1. (a) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in Section 18165 any establishment of an office or place of business that the commissioner finds not necessary or appropriate to regulate under that section.

(b) In granting an exemption under this section, the commissioner may impose any conditions that the commissioner finds necessary or appropriate.

SEC. 5. Section 18166 of the Financial Code is amended to read:

18166. (a) If an industrial loan company desires to change its place of business to a street address other than that designated in its authorization, it shall give written notice to the commissioner who shall issue his or her written authorization of the change, provided the commissioner finds the change would not justify a negative finding with respect to any matters set forth in Section 18117 or 18147.

(b) The commissioner may, by order or regulation, exempt from the requirement of authorization by the commissioner set forth in subdivision (a) any change of location of a place of business that the commissioner finds not necessary or appropriate to regulate under that section.

