

AMENDED IN ASSEMBLY MAY 11, 1998

AMENDED IN SENATE MARCH 16, 1998

SENATE BILL

No. 1624

Introduced by Senator Lewis

February 12, 1998

~~An act to amend Section 18437 of the Financial Code, An act to amend Sections 201, 202, and 206 of, and to add Section 163.5 to, the Corporations Code, to amend Sections 4828.3, 18000, 18003, 18011, 18014, 18023, 18023.1, 18024, 18025, 18040, 18060, 18061, 18100, 18100.5, 18101, 18115, 18117, 18119, 18190, 18205, 18205.5, 18208, 18210, 18216, 18218, 18265, 18266, 18266.1, 18268, 18269, 18271, 18290, 18293, 18315, 18317, 18321, 18341, 18436, 18438, 18441, 18445, 18446, 18447, 18448, 18450, 18451, 18452, 18454, 18455, 18563, 18583, 18586, and 18594 of, to add Sections 18001.3, 18001.7, 18002.2, 18002.4, 18002.6, 18012.3, 18012.5, 18012.7, 18014.3, 18014.6, 18014.9, 18016.5, 18019.1, 18020.2, 18020.6, 18020.8, 18022.3, 18022.7, 18105, 18448.1, and 18448.2 to, to add Chapter 1.5 (commencing with Section 18070), Chapter 2.3 (commencing with Section 18130.01), and Chapter 2.7 (commencing with Section 18160.01) to Division 7 of, to add Article 4 (commencing with Section 18245) to Chapter 3 of Division 7 of, to repeal Sections 18011.1, 18018.2, 18018.3, 18018.4, 18018.5, 18018.6, 18042, 18043, 18057, 18059, 18116, 18120, 18206, 18230, 18266.2, 18266.3, 18319, 18320, 18437, and 18582 of, to repeal Article 3 (commencing with Section 18130), Article 4 (commencing with Section 18145), and Article 5 (commencing with Section 18165), of Chapter 2 of Division 7 of, and to repeal and add Sections 18003.5, 18016,~~

18017, 18018, 18018.1 18019, 18020, 18021, 18041, 18102, 18442, and Chapter 7 (commencing with Section 18475) of Division 7 of, the Financial Code, relating to industrial loan companies.

LEGISLATIVE COUNSEL'S DIGEST

SB 1624, as amended, Lewis. Industrial loan companies: ~~loans: residency.~~

Existing law provides for the regulation of banks, trust companies, industrial loan companies, savings associations, credit unions, and other financial institutions by the Department of Financial Institutions.

This bill would make certain changes to the Banking Law and the Industrial Loan Company Law, to, among other things, change references to the Industrial Loan Law that is also known as the Thrift and Loan Law to the Industrial Banking Law, and change references to industrial loan companies to industrial banks. It would make industrial loan companies subject to certain merger provisions applicable to banks and revise and recast various other provisions, as specified, to conform various provisions of the Industrial Loan Law to the Banking Law.

~~Existing law generally prohibits an industrial loan company from making loans to, or purchasing obligations from, persons who do not reside or have a place of business in this state unless those loans or obligations comply with specified conditions, or unless those loans and obligations do not exceed a specified amount of an industrial loan company's total assets. This requirement does not apply to loans made to, or acquired from, persons who do not reside or have a place of business in this state if, among other things, the loans are owned by an industrial loan company for 90 days or less.~~

~~This bill would increase that time period to 120 days or less.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.



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

1 ~~SECTION 1. Section 18437 of the Financial Code is~~
2 ~~amended to read:~~

3 ~~18437. (a) Except as provided in subdivision (b), an~~
4 ~~industrial loan company shall not make loans to, or~~
5 ~~purchase any obligations from, persons who do not reside~~
6 ~~or have a place of business in the State of California, unless~~
7 ~~those loans or obligations comply with all of the following~~
8 ~~conditions:~~

9 ~~(1) If the loan or obligation is unsecured, then only if~~
10 ~~the loan or obligation bears the unqualified written~~
11 ~~guaranty of a financially responsible person, considering~~
12 ~~the amount of the obligation, who resides or has a place~~
13 ~~of business in the State of California.~~

14 ~~(2) If the documents and security for the loan or~~
15 ~~obligation and all records relating to the transaction are~~
16 ~~in California at the time the loan or obligation is made or~~
17 ~~acquired and are thereafter kept in California while the~~
18 ~~loan or obligation remains unsatisfied, except that where~~
19 ~~the security is aircraft, the security need not be in~~
20 ~~California at the time the loan or obligation is made or~~
21 ~~acquired, nor need it thereafter be held in California~~
22 ~~while the loan or obligation remains unsatisfied.~~

23 ~~(b) Notwithstanding subdivision (a), an industrial~~
24 ~~loan company may make loans to, or purchase any~~
25 ~~obligations from, persons who do not reside or have a~~
26 ~~place of business in the State of California not to exceed~~
27 ~~20 percent, in the aggregate, of an industrial loan~~
28 ~~company's total assets. Upon application to and approval~~
29 ~~by the commissioner, an industrial loan company may~~
30 ~~increase its loans to, or purchases of, obligations from~~
31 ~~persons who do not reside or have a place of business in~~
32 ~~this state not to exceed 40 percent, in the aggregate, of an~~
33 ~~industrial loan company's total assets. The application~~
34 ~~shall include all of the following information:~~

35 ~~(1) A description of the company's proposed plan of~~
36 ~~business.~~

37 ~~(2) The character, business qualifications, and other~~
38 ~~experience of the proposed officers and managers~~



1 ~~directing the line of business for which authorization is~~
2 ~~requested.~~

3 ~~(3) Any other facts and circumstances bearing on the~~
4 ~~proposal that, as determined by the commissioner, may~~
5 ~~be relevant.~~

6 ~~(e) This section does not apply to loans made to, or~~
7 ~~acquired from, persons who do not reside or have a place~~
8 ~~of business in this state if all of the following conditions are~~
9 ~~met:~~

10 ~~(1) The loans are for the purchase or refinance of~~
11 ~~single or multi-family residential property.~~

12 ~~(2) The loans are salable in the secondary market as~~
13 ~~evidenced by commitments to buy by a buyer in the~~
14 ~~secondary market.~~

15 ~~(3) The loans are owned by the industrial loan~~
16 ~~company for 120 days or less.~~

17 *SECTION 1. Section 163.5 is added to the*
18 *Corporations Code, to read:*

19 *163.5. "Corporation subject to the Industrial Banking*
20 *Law" means any corporation which, with the approval of*
21 *the Commissioner of Financial Institutions, is*
22 *incorporated for the purpose of engaging in, or amends*
23 *its articles for the purpose of engaging in, or which is*
24 *authorized by the Commissioner of Financial Institutions*
25 *to engage in, the industrial banking business.*

26 *SEC. 2. Section 201 of the Corporations Code is*
27 *amended to read:*

28 201. (a) The Secretary of State shall not file articles
29 setting forth a name in which "bank," "trust," "trustee"
30 or related words appear, unless the certificate of approval
31 of the Commissioner of Financial Institutions is attached
32 thereto. This subdivision does not apply to the articles of
33 any corporation subject to the Banking Law *or to the*
34 *Industrial Banking Law* on which is endorsed the
35 approval of the Commissioner of Financial Institutions.

36 (b) The Secretary of State shall not file articles ~~which~~
37 *that* set forth a name which is likely to mislead the public
38 or which is the same as, or resembles so closely as to tend
39 to deceive, the name of a domestic corporation, the name
40 of a foreign corporation ~~which~~ *that* is authorized to



1 transact intrastate business or has registered its name
2 pursuant to Section 2101, a name—~~which~~ *that* a foreign
3 corporation has assumed under subdivision (b) of Section
4 2106, a name which will become the record name of a
5 domestic or foreign corporation upon the effective date
6 of a filed corporate instrument where there is a delayed
7 effective date pursuant to subdivision (c) of Section 110
8 or subdivision (c) of Section 5008, or a name—~~which~~ *that*
9 is under reservation for another corporation pursuant to
10 this section, Section 5122, Section 7122, or Section 9122,
11 except that a corporation may adopt a name that is
12 substantially the same as an existing domestic corporation
13 or foreign corporation—~~which~~ *that* is authorized to
14 transact intrastate business or has registered its name
15 pursuant to Section 2101, upon proof of consent by—~~such~~
16 *the* domestic or foreign corporation and a finding by the
17 Secretary of State that under the circumstances the
18 public is not likely to be misled.

19 The use by a corporation of a name in violation of this
20 section may be enjoined notwithstanding the filing of its
21 articles by the Secretary of State.

22 (c) Any applicant may, upon payment of the fee
23 prescribed therefor in the Government Code, obtain
24 from the Secretary of State a certificate of reservation of
25 any name not prohibited by subdivision (b), and upon the
26 issuance of the certificate the name stated therein shall be
27 reserved for a period of 60 days. The Secretary of State
28 shall not, however, issue certificates reserving the same
29 name for two or more consecutive 60-day periods to the
30 same applicant or for the use or benefit of the same
31 person, partnership, firm or corporation; nor shall
32 consecutive reservations be made by or for the use or
33 benefit of the same person, partnership, firm or
34 corporation of names so similar as to fall within the
35 prohibitions of subdivision (b).

36 *SEC. 3. Section 202 of the Corporations Code is*
37 *amended to read:*

38 202. The articles of incorporation shall set forth:

39 (a) The name of the corporation;—~~provided, however,~~
40 ~~that.~~ *However,* in order for the corporation to be subject



1 to the provisions of this division applicable to a close
2 corporation (Section 158), the name of the corporation
3 ~~must~~ shall contain the word—“corporation”,
4 ~~“incorporated”~~ “corporation,” “incorporated,” or
5 “limited” or an abbreviation of one of ~~such~~ those words.

6 (b) (1) The applicable one of the following
7 statements:

8 (i) The purpose of the corporation is to engage in any
9 lawful act or activity for which a corporation may be
10 organized under the General Corporation Law of
11 California other than the banking business, the trust
12 company business or the practice of a profession
13 permitted to be incorporated by the California
14 Corporations Code; or

15 (ii) The purpose of the corporation is to engage in the
16 profession of ____ (with the insertion of a profession
17 permitted to be incorporated by the California
18 Corporations Code) and any other lawful activities
19 (other than the banking or trust company business) not
20 prohibited to a corporation engaging in—~~such~~ that
21 profession by applicable laws and regulations.

22 (2) In case the corporation is a corporation subject to
23 the Banking Law, the articles shall set forth a statement
24 of purpose—~~which~~ that is prescribed in the applicable
25 provision of the Banking Law.

26 (3) In case the corporation is a corporation subject to
27 the Insurance Code as an insurer, the articles shall
28 additionally state that the business of the corporation is to
29 be an insurer.

30 (4) *In the case where the corporation is subject to the*
31 *Industrial Banking Law, the articles shall set forth a*
32 *statement of purpose that is prescribed in the applicable*
33 *provision of that law.*

34 The articles shall not set forth any further or additional
35 statement with respect to the purposes or powers of the
36 corporation, except by way of limitation or except as
37 expressly required by any law of this state other than this
38 division or any federal or other statute or regulation
39 (including the Internal Revenue Code and regulations



1 thereunder as a condition of acquiring or maintaining a
2 particular status for tax purposes).

3 (c) The name and address in this state of the
4 corporation's initial agent for service of process in
5 accordance with subdivision (b) of Section 1502.

6 (d) If the corporation is authorized to issue only one
7 class of shares, the total number of shares—~~which~~ *that* the
8 corporation is authorized to issue.

9 (e) If the corporation is authorized to issue more than
10 one class of shares, or if any class of shares is to have two
11 or more series:

12 (1) The total number of shares of each class the
13 corporation is authorized to issue, and the total number
14 of shares of each series—~~which~~ *that* the corporation is
15 authorized to issue or that the board is authorized to fix
16 the number of shares of ~~any such~~ *each* series;

17 (2) The designation of each class, and the designation
18 of each series or that the board may determine the
19 designation of any such series; and

20 (3) The rights, preferences, privileges and restrictions
21 granted to or imposed upon the respective classes or
22 series of shares or the holders thereof, or that the board,
23 within any limits and restrictions stated, may determine
24 or alter the rights, preferences, privileges and restrictions
25 granted to or imposed upon any wholly unissued class of
26 shares or any wholly unissued series of any class of shares.
27 As to any series the number of shares of which is
28 authorized to be fixed by the board, the articles may also
29 authorize the board, within the limits and restrictions
30 stated therein or stated in any resolution or resolutions of
31 the board originally fixing the number of shares
32 constituting any series, to increase or decrease (but not
33 below the number of shares of—~~such~~ series then
34 outstanding) the number of shares of any—~~such~~ *that* series
35 subsequent to the issue of shares of that series. In case the
36 number of shares of any series shall be so decreased, the
37 shares constituting—~~such~~ *the* decrease shall resume the
38 status—~~which~~ *that* they had prior to the adoption of the
39 resolution originally fixing the number of shares of—~~such~~
40 *the* series.

1 SEC. 4. Section 206 of the Corporations Code is
2 amended to read:

3 206. Subject to any limitation contained in the articles
4 and to compliance with any other applicable laws, any
5 corporation other than a corporation subject to the
6 Banking Law, *the Industrial Banking Law*, or a
7 professional corporation may engage in any business
8 activity; and a corporation subject to the Banking Law,
9 *the Industrial Banking Law*, or a professional corporation
10 may engage in any business activity not prohibited by the
11 respective statutes and regulations to which it is subject.

12 SEC. 5. Section 4828.3 of the Financial Code is
13 amended to read:

14 4828.3. A California state bank *or an industrial loan*
15 *company* may, with the approval of the commissioner and
16 its board and, if the transaction constitutes a
17 reorganization as defined in Section 181 of the
18 Corporations Code, subject to the provisions of Chapter
19 12 (commencing with Section 1200) of Division 1 of Title
20 1 of the Corporations Code, acquire in a single transaction
21 all (except directors' qualifying shares, if any) of the
22 outstanding shares of another depository corporation in
23 accordance with a plan that provides either of the
24 following:

25 (a) That the other depository corporation shall (1)
26 immediately sell its whole business unit (as defined in
27 Section 4840) to the California state bank *or industrial*
28 *loan company* and (2) shall thereafter wind up and
29 dissolve or, if the other depository corporation is a
30 California state bank *or an industrial loan company* and
31 if the commissioner so approves, change into a nonbank
32 corporation by amending its articles and changing its
33 name.

34 (b) That the other depository corporation shall
35 immediately merge into the California state bank *or*
36 *industrial loan company*.

37 SEC. 6. Section 18000 of the Financial Code is
38 amended to read:



1 18000. This division shall be known and may be cited
2 as the “Industrial Loan Law” or the ~~“Thrift and Loan~~
3 ~~Law.”~~ “Industrial Banking Law.”

4 SEC. 7. Section 18001.3 is added to the Financial
5 Code, to read:

6 18001.3. “Articles” has the meaning set forth in
7 Section 154 of the Corporations Code.

8 SEC. 8. Section 18001.7 is added to the Financial
9 Code, to read:

10 18001.7. “Board” has the meaning set forth in Section
11 155 of the Corporations Code.

12 SEC. 9. Section 18002.2 is added to the Financial
13 Code, to read:

14 18002.2. “Contributed capital” means all of
15 shareholders’ equity other than retained earnings.
16 However, nothing in this section prohibits an industrial
17 loan company from transferring amounts from time to
18 time from its retained earnings to its contributed capital,
19 subject to any applicable statutes, regulations, and
20 generally accepted accounting principles.

21 SEC. 10. Section 18002.4 is added to the Financial
22 Code, to read:

23 18002.4. “Control” means possession, direct or
24 indirect, of the power to do either of the following:

25 (a) Vote 25 percent or more of any class of the voting
26 securities issued by a person.

27 (b) Direct or cause the direction of the management
28 and policies of a person whether through the ownership
29 of voting securities, by contract (other than a credit
30 contract or commercial contract for goods or
31 nonmanagement services), or otherwise. However, no
32 individual shall be deemed to control a person solely on
33 account of being a director, officer, or employee of the
34 person. For purposes of this subdivision, a person who,
35 directly or indirectly, owns, controls, holds with the
36 power to vote, or holds proxies representing, 10 percent
37 or more of the then outstanding voting securities issued
38 by another person, is presumed to control the other
39 person.



1 SEC. 11. Section 18002.6 is added to the Financial
2 Code, to read:

3 18002.6. “Directors” has the meaning set forth in
4 Section 164 of the Corporations Code.

5 SEC. 12. Section 18003 of the Financial Code is
6 amended to read:

7 18003. ~~“Industrial loan company”,~~ “Industrial loan
8 company,” “industrial bank,” “thrift and loan company”,
9 company,” or “company” means ~~any corporation which~~
10 ~~in the regular course of business loans money and issues~~
11 ~~its own choses in action under the provisions of this~~
12 ~~division a corporation organized under the laws of this~~
13 ~~state the primary purpose of which is to engage in the~~
14 ~~industrial banking business.~~

15 SEC. 13. Section 18003.5 of the Financial Code is
16 repealed.

17 18003.5. ~~“Insured company” means a thrift and loan~~
18 ~~company licensed by the commissioner under this~~
19 ~~division, the investment certificates of which are insured~~
20 ~~by the Federal Deposit Insurance Corporation under~~
21 ~~applicable federal law.~~

22 SEC. 14. Section 18003.5 is added to the Financial
23 Code, to read:

24 18003.5. (a) When used with respect to an industrial
25 loan company, “insured” means an industrial loan
26 company that is insured by the Federal Deposit
27 Insurance Corporation under the Federal Deposit
28 Insurance Act (12 U.S.C. Sec. 1811 et seq.).

29 (b) When used with respect to an investment
30 certificate, “insured” means an investment certificate
31 that is insured by the Federal Deposit Insurance
32 Corporation under the Federal Deposit Insurance Act
33 (12 U.S.C. Sec. 1811 et seq.).

34 SEC. 15. Section 18011 of the Financial Code is
35 amended to read:

36 18011. ~~“Affiliated company”, as used in this division,~~
37 ~~is a company under substantially the same management~~
38 ~~or control, directly or indirectly, as the company” means~~
39 ~~a person, other than an individual that, directly or~~
40 ~~indirectly through one or more intermediaries, controls,~~



1 is controlled by, or is under common control with, an
2 industrial loan company.

3 SEC. 16. Section 18011.1 of the Financial Code is
4 repealed.

5 ~~18011.1. “Affiliate” means an affiliated company or a
6 person who, directly or indirectly, controls over 10
7 percent of the voting stock of an industrial loan company.~~

8 SEC. 17. Section 18012.3 is added to the Financial
9 Code, to read:

10 18012.3. “Distribution to its shareholders” has the
11 meaning set forth in Section 166 of the Corporations
12 Code. However, in Division 1 (commencing with Section
13 100) of Title 1 of the Corporations Code and in this
14 division, “distribution to its shareholders” does not
15 include any purchase of shares by an industrial loan
16 company or by a majority-owned subsidiary of an
17 industrial loan company that is necessary to reduce or
18 avoid loss to the industrial loan company or to the
19 subsidiary on an extension of credit previously made in
20 good faith. Also, in this division, “distribution to its
21 shareholders” includes any distribution made by an
22 industrial loan company or by a majority-owned
23 subsidiary of an industrial loan company to the
24 shareholders of any corporation of which the industrial
25 loan company is a majority-owned subsidiary.

26 SEC. 18. Section 18012.5 is added to the Financial
27 Code, to read:

28 18012.5. “Holding company” means a person, other
29 than an individual, that is a “controlling person,” as
30 defined in Section 18475.

31 SEC. 19. Section 18012.7 is added to the Financial
32 Code, to read:

33 18012.7. “Majority-owned subsidiary” has the
34 meaning set forth for “subsidiary” in subdivision (a) of
35 Section 189 of the Corporations Code.

36 SEC. 20. Section 18014 of the Financial Code is
37 amended to read:

38 18014. ~~“Obligation”~~ “Obligation,” as used in Sections
39 18265, 18271, and 18272, ~~and 18343~~ includes lease
40 obligations ~~as authorized by Section 18310.~~



1 SEC. 21. Section 18014.3 is added to the Financial
2 Code, to read:

3 18014.3. “Office” includes head office, branch office,
4 facility, and any other authorized place of business of an
5 industrial loan company, but excludes the residence of an
6 employee or representative of a company used solely for
7 the solicitation of loans or leases.

8 SEC. 22. Section 18014.6 is added to the Financial
9 Code, to read:

10 18014.6. “Head office” means the principal place of
11 business of an industrial loan company.

12 SEC. 23. Section 18014.9 is added to the Financial
13 Code, to read:

14 18014.9. “Branch office” means any office, other than
15 the head office, at which an industrial loan company
16 engages in the industrial loan business, and at which it
17 offers and sells investment certificates.

18 SEC. 24. Section 18016 of the Financial Code is
19 repealed.

20 ~~18016. “Investment certificates ratio”, as used in this~~
21 ~~division, means the ratio of the aggregate sum of all of the~~
22 ~~outstanding investment certificates, exclusive of those~~
23 ~~hypothecated with the company issuing them, of a~~
24 ~~company to the aggregate amount of its paid-up and~~
25 ~~unimpaired capital and unimpaired surplus declared not~~
26 ~~available for dividends pursuant to Section 18319.~~

27 SEC. 25. Section 18016 is added to the Financial Code,
28 to read:

29 18016. “Person” means an individual, sole
30 proprietorship, partnership, joint venture, association,
31 trust, estate, business trust, corporation, limited liability
32 company, sovereign government or agency,
33 instrumentality, or political subdivision thereof, or any
34 similar entity or organization.

35 SEC. 26. Section 18016.5 is added to the Financial
36 Code, to read:

37 18016.5. “Premium finance agency” has the meaning
38 set forth in Section 18560.

39 SEC. 27. Section 18017 of the Financial Code is
40 repealed.



1 ~~18017. “Assets,” as used in this division, means all~~
2 ~~assets excluding intangibles.~~

3 *SEC. 28. Section 18017 is added to the Financial Code,*
4 *to read:*

5 *18017. “Shares” has the meaning set forth in Section*
6 *184 of the Corporations Code.*

7 *SEC. 29. Section 18018 of the Financial Code is*
8 *repealed.*

9 ~~18018. “Capital,” as used in this division, consists of all~~
10 ~~of the following:~~

11 ~~(a) Capital stock.~~

12 ~~(b) Primary capital to the extent not included in~~
13 ~~capital stock.~~

14 ~~(c) Secondary capital.~~

15 *SEC. 30. Section 18018 is added to the Financial Code,*
16 *to read:*

17 *18018. “Shareholder” has the meaning set forth in*
18 *Section 185 of the Corporations Code.*

19 *SEC. 31. Section 18018.1 of the Financial Code is*
20 *repealed.*

21 ~~18018.1. “Primary capital,” as used in this division,~~
22 ~~means the sum of common stock, perpetual preferred~~
23 ~~stock, capital surplus, undivided profits, capital reserves,~~
24 ~~and mandatory convertible debt (to the extent of 20~~
25 ~~percent of primary capital exclusive of that debt).~~

26 *SEC. 32. Section 18018.1 is added to the Financial*
27 *Code, to read:*

28 *18018.1. “Shareholder equity” means the difference*
29 *between assets and liabilities of an industrial company as*
30 *set forth on its balance sheet and prepared in accordance*
31 *with generally accepted accounting principles.*

32 *SEC. 33. Section 18018.2 of the Financial Code is*
33 *repealed.*

34 ~~18018.2. “Secondary capital,” as used in this division,~~
35 ~~means the sum of mandatory convertible debt that is not~~
36 ~~included in primary capital, limited life preferred stock,~~
37 ~~and subordinated notes and debentures, all in an amount~~
38 ~~up to 50 percent of primary capital. Issues of limited life~~
39 ~~preferred stock and subordinated notes and debentures,~~
40 ~~except mandatory convertible debt, shall have original~~



1 ~~weighted average maturities of at least seven years to be~~
2 ~~included within capital surplus under primary capital.~~

3 *SEC. 34. Section 18018.3 of the Financial Code is*
4 *repealed.*

5 ~~18018.3. “Perpetual preferred stock,” as used in this~~
6 ~~division, means a preferred stock that does not have a~~
7 ~~stated maturity date or that can not be redeemed at the~~
8 ~~option of the holder. It includes those issues of preferred~~
9 ~~stock that automatically convert into common stock at a~~
10 ~~stated date. It excludes those issues, the rate on which~~
11 ~~increases, or can increase, in such a manner that would~~
12 ~~effectively require the issuer to redeem the issue.~~

13 *SEC. 35. Section 18018.4 of the Financial Code is*
14 *repealed.*

15 ~~18018.4. “Mandatory convertible debt,” as used in this~~
16 ~~division, means a subordinated debt instrument which~~
17 ~~requires the issuer to convert that instrument into~~
18 ~~common or perpetual preferred stock by a date at or~~
19 ~~before the maturity of the debt instrument. The maturity~~
20 ~~of those instruments shall be 12 years or less.~~

21 *SEC. 36. Section 18018.5 of the Financial Code is*
22 *repealed.*

23 ~~18018.5. “Limited life preferred,” as used in this~~
24 ~~division, means preferred stock which has a maturity or~~
25 ~~which may be redeemed at the option of the holder.~~

26 *SEC. 37. Section 18018.6 of the Financial Code is*
27 *repealed.*

28 ~~18018.6. “Subordinated notes and debentures,” as~~
29 ~~used in this division, means an obligation other than an~~
30 ~~investment certificate obligation that:~~

31 ~~(a) Bears on its face, in boldface type no smaller than~~
32 ~~the largest size type used in the obligation, the following:~~
33 ~~“this obligation is not a deposit and is not insured by the~~
34 ~~Federal Deposit Insurance Corporation.”~~

35 ~~(b) (1) Has a maturity of at least seven years, or (2)~~
36 ~~in the case of an obligation or issue that provides for~~
37 ~~scheduled repayments of principal, has an average~~
38 ~~maturity of at least seven years; however, the~~
39 ~~commissioner may permit the issuance of an obligation or~~
40 ~~issue with a shorter maturity or average maturity if the~~



1 commissioner ~~has determined that exigent~~
2 ~~circumstances require the issuance of that obligation or~~
3 ~~issue. This subdivision shall not apply to mandatory~~
4 ~~convertible obligations or issues.~~

5 ~~(e) States expressly that the obligation is subordinated~~
6 ~~and junior in right of payment to the issuing industrial~~
7 ~~loan company's obligations to its investment certificate~~
8 ~~holders and to the industrial loan company's other~~
9 ~~obligations to its general and secured creditors, and is~~
10 ~~ineligible as collateral for a loan by the issuing industrial~~
11 ~~loan company.~~

12 ~~(d) Is unsecured.~~

13 ~~(e) States expressly that the issuing industrial loan~~
14 ~~company may not retire any part of its obligation without~~
15 ~~the prior written consent of the commissioner.~~

16 ~~(f) Includes, if the obligation is issued to a depository~~
17 ~~institution, a specific waiver of the right of offset by the~~
18 ~~lending depository institution.~~

19 *SEC. 38. Section 18019 of the Financial Code is*
20 *repealed.*

21 ~~18019. "Capital Stock," as used in this division, means~~
22 ~~one-class voting common stock.~~

23 *SEC. 39. Section 18019 is added to the Financial Code,*
24 *to read:*

25 *18019. "Vote" has the meaning set forth in Section 194*
26 *of the Corporations Code.*

27 *SEC. 40. Section 18019.1 is added to the Financial*
28 *Code, to read:*

29 *18019.1. "Voting power" has the meaning set forth in*
30 *Section 194.5 of the Corporations Code.*

31 *SEC. 41. Section 18020 of the Financial Code is*
32 *repealed.*

33 ~~18020. An industrial loan company shall not appoint~~
34 ~~or continue in office any officer, director or management~~
35 ~~personnel who do not have the qualifications required by~~
36 ~~Section 18117(d).~~

37 *SEC. 42. Section 18020 is added to the Financial Code,*
38 *to read:*

39 *18020. The General Corporation Law (Division 1*
40 *(commencing with Section 100) of Title 1 of the*



1 *Corporations Code) applies to industrial loan companies.*
2 *However, whenever any provision of this division or of*
3 *any regulation or order issued under any provision (other*
4 *than this section) of this division applicable to industrial*
5 *loan companies is inconsistent with any provision of the*
6 *General Corporation Law, the provision of this division or*
7 *of the regulation or order applies and the provision of the*
8 *General Corporation Law does not apply.*

9 *SEC. 43. Section 18020.2 is added to the Financial*
10 *Code, to read:*

11 *18020.2. If and to the extent that any provision of this*
12 *division is preempted by federal law, the provision does*
13 *not apply and shall not be enforced.*

14 *SEC. 44. Section 18020.6 is added to the Financial*
15 *Code, to read:*

16 *18020.6. No industrial loan company shall be a close*
17 *corporation, as defined in Section 158 of the Corporations*
18 *Code.*

19 *SEC. 45. Section 18020.8 is added to the Financial*
20 *Code, to read:*

21 *18020.8. (a) All references in this division and in*
22 *Division 1 (commencing with Section 100) of Title 1 of*
23 *the Corporations Code to financial statements, balance*
24 *sheets, income statements and statements of cash flows of*
25 *an industrial loan company and all references to assets,*
26 *liabilities, earnings, retained earnings, shareholders'*
27 *equity, and similar accounting items of an industrial loan*
28 *company mean the financial statements or the items*
29 *prepared or determined in conformity with generally*
30 *accepted accounting principles then applicable, fairly*
31 *presenting in conformity with generally accepted*
32 *accounting principles the matters that they purport to*
33 *present, subject to any specific accounting treatment*
34 *required by any provision of Division 1 (commencing*
35 *with Section 100) of Title 1 of the Corporations Code, of*
36 *this division, or of any regulation or order issued under*
37 *this division.*

38 *(b) The commissioner may, by regulation or order,*
39 *require that any financial statement or accounting item*
40 *of an industrial loan company be prepared or determined*



1 *in a manner other than in conformity with generally*
2 *accepted accounting principles if the commissioner finds*
3 *that the other manner is necessary or advisable to carry*
4 *out the purposes or provisions of this division.*

5 *SEC. 46. Section 18021 of the Financial Code is*
6 *repealed.*

7 ~~18021. (a) An industrial loan company shall not~~
8 ~~deposit its funds except with a bank, trust company, or~~
9 ~~savings association authorized to do business in this state,~~
10 ~~except as provided in subdivision (b).~~

11 ~~(b) An industrial loan company which is insured, as~~
12 ~~that term is defined in Section 18003.5, may also deposit~~
13 ~~its funds in an out-of-state financial institution, the~~
14 ~~accounts of which are insured by the Federal Deposit~~
15 ~~Insurance Corporation.~~

16 ~~(c) Funds deposited in an out-of-state financial~~
17 ~~institution shall not in any case exceed the applicable~~
18 ~~amount of federal deposit insurance.~~

19 ~~(d) The depository shall be approved by a majority~~
20 ~~vote of the board of directors or the executive committee,~~
21 ~~exclusive of the vote of any director who is an officer,~~
22 ~~director, trustee, or shareholder of the depository so~~
23 ~~designated. An out-of-state savings association subject to~~
24 ~~the Management Consignment Program of the Office of~~
25 ~~Thrift Supervision shall not be used as a depository.~~

26 ~~(e) An industrial loan company shall furnish an~~
27 ~~authorization for disclosure to the commissioner of the~~
28 ~~financial records of deposits pursuant to Section 7473 of~~
29 ~~the Government Code. No deposit shall be made in an~~
30 ~~out-of-state financial institution unless that institution~~
31 ~~agrees in writing to disclose financial records of the~~
32 ~~industrial loan company to the commissioner.~~

33 *SEC. 47. Section 18021 is added to the Financial Code,*
34 *to read:*

35 *18021. The amount of funds of an industrial loan*
36 *company that are deposited in any other financial*
37 *institution (except a Federal Reserve bank) shall not at*
38 *any time exceed 10 percent of the shareholders' equity of*
39 *the depositing industrial loan company unless the*
40 *financial institution has been designated as a depository*



1 for the funds of the depositing industrial loan company by
2 the board of the depositing industrial loan company, and
3 unless the financial institution has been approved by the
4 commissioner as a depository for the purposes of this
5 section. The commissioner may in his or her discretion
6 revoke his or her approval of any depository and may in
7 his or her discretion limit the amount of funds that may
8 be deposited by an industrial loan company with any
9 other financial institution. A deposit by one industrial
10 loan company with another financial institution shall not
11 be regarded as a loan.

12 SEC. 48. Section 18022.3 is added to the Financial
13 Code, to read:

14 18022.3. (a) An industrial loan company may invest
15 in securities, except equity securities, which in the
16 informed opinion of the industrial loan company, it is
17 prudent to invest its funds.

18 (b) Unless otherwise approved by the commissioner,
19 an industrial loan company shall not invest an amount
20 exceeding 15 percent of its shareholders' equity in the
21 securities, except equity securities, of any one obligor or
22 maker, except:

23 (1) Obligations of the United States and those for
24 which the faith and credit of the United States are
25 pledged for the payment of principal and interest.

26 (2) Bonds, consolidated bonds, collateral trust
27 debentures, or other obligations issued by the Federal
28 Financing Bank, the United States Postal Service, federal
29 land banks or federal intermediate credit banks
30 established under the Federal Farm Loan Act, as
31 amended; in debentures and consolidated debentures
32 issued by the Central Bank for Cooperatives and banks for
33 cooperatives established under the Farm Credit Act of
34 1933, as amended; in consolidated notes, bonds,
35 debentures, and other obligations issued by federal land
36 banks, federal intermediate credit banks, and banks for
37 cooperatives under the Farm Credit Act of 1971; in the
38 bonds of any federal home loan bank established under
39 the Federal Home Loan Bank Act; and in stock, bonds,
40 debentures, participations, and other obligations of or



1 issued by the Student Loan Marketing Association, the
2 Federal National Mortgage Association, the Government
3 National Mortgage Association, and the Federal Home
4 Loan Mortgage Corporation.

5 (3) Obligations of the State of California and those for
6 which the credit of the State of California is pledged for
7 the payment of principal and interest.

8 (4) Obligations of a local agency or district of the State
9 of California having the power, without limit as to rate or
10 amount, to levy taxes to pay the principal and interest of
11 the bonds upon all property within its boundaries subject
12 to taxation by the local agency or district.

13 (c) If any industrial loan company has made
14 investments that it was authorized to make at the time
15 they were made, it shall not be required to dispose of the
16 investments by reason of adoption of any amendments to
17 this article.

18 SEC. 49. Section 18022.7 is added to the Financial
19 Code, to read:

20 18022.7. An industrial loan company may invest in
21 equity securities of one or more organizations subject to
22 any regulations that the commissioner may prescribe.

23 SEC. 50. Section 18023 of the Financial Code is
24 amended to read:

25 18023. If an industrial loan company has investment
26 or thrift certificates outstanding, then ~~such~~ the company
27 shall not borrow, except by the sale of investment or thrift
28 certificates, in an amount in excess of 300 percent of ~~the~~
29 ~~amount represented by its outstanding capital stock,~~
30 ~~surplus and undivided profits, its shareholders' equity,~~
31 without the written consent of the commissioner. All
32 sums so borrowed in excess of 150 percent of ~~outstanding~~
33 ~~capital stock, surplus and undivided profits its~~
34 ~~shareholders' equity~~ shall be unsecured borrowings or, if
35 secured, approved in writing by the commissioner in
36 advance of the borrowings, ~~and be included as~~
37 ~~investment or thrift certificates for purposes of~~
38 ~~computing the ratio allowed under Sections 18319 and~~
39 ~~18320.~~



1 SEC. 51. Section 18023.1 of the Financial Code is
2 amended to read:

3 18023.1. In addition to the borrowings under Section
4 18023, an industrial loan company may borrow funds from
5 the Federal Home Loan Bank, the Federal Deposit
6 Insurance Corporation, or a Federal Reserve Bank, which
7 borrowed funds shall not be included in the borrowing
8 limitations contained in Section 18023.

9 SEC. 52. Section 18024 of the Financial Code is
10 amended to read:

11 18024. An industrial loan company shall not transact
12 business or make any loan provided for by this division
13 under any other name than that set forth in the articles
14 ~~of incorporation as filed with the commissioner or, upon~~
15 ~~written consent of the commissioner, under a fictitious~~
16 ~~business name.~~

17 SEC. 53. Section 18025 of the Financial Code is
18 amended to read:

19 18025. No person shall use a holding company or any
20 other device for the purpose of evading or avoiding any
21 of the provisions of this division. This section shall not
22 affect the right of a holding company to issue preferred
23 stock or debentures when permitted to do so under the
24 Corporate Securities Law of 1968. ~~“Holding company”~~
25 ~~means any company which directly or through one or~~
26 ~~more intervening subsidiaries, whether or not wholly~~
27 ~~owned, controls or has the power to control a majority of~~
28 ~~the shares of an industrial loan company.~~

29 SEC. 54. Section 18040 of the Financial Code is
30 amended to read:

31 18040. An industrial loan company may purchase,
32 hold, and convey real property ~~for the following purposes~~
33 ~~only as follows:~~

34 (a) ~~Real property conveyed to it in satisfaction of debts~~
35 ~~previously contracted in the course of its business.~~

36 (b) ~~Real property purchased at sale under judgments,~~
37 ~~decrees or mortgage foreclosures or foreclosures of or~~
38 ~~trustees' sales under deeds of trust under securities held~~
39 ~~by it. No company shall bid at any such sale a larger~~
40 ~~amount than is necessary to satisfy its debt and costs.~~



1 ~~(e)~~ Real property necessary as premises for the
2 transaction of its business. No company shall invest
3 directly or indirectly an amount exceeding one-third of
4 its paid-up capital stock and surplus not available for
5 dividends as provided in Section 18319 in the lot and
6 building in which the business of the company is carried
7 on, leasehold improvements, furniture, fixtures, vaults,
8 automobiles, and other personal property, necessary and
9 proper to carry on its business.

10 ~~(d) The provisions of this section shall not apply to~~

11 ~~(b) Real property acquired and held for lease pursuant~~
12 ~~to Section 18310.~~

13 *SEC. 55. Section 18041 of the Financial Code is*
14 *repealed.*

15 ~~18041. (a) The commissioner may establish rules and~~
16 ~~regulations regarding the sale of any real property~~
17 ~~acquired pursuant to subdivision (a) or (b) of Section~~
18 ~~18040, consistent with what constitutes sound business~~
19 ~~practices for industrial loan companies.~~

20 ~~(b) Real property acquired pursuant to subdivision~~
21 ~~(a) or (b) of Section 18040 shall not be held for a longer~~
22 ~~period than five years without the written consent of the~~
23 ~~commissioner.~~

24 *SEC. 56. Section 18041 is added to the Financial Code,*
25 *to read:*

26 *18041. (a) An industrial loan company may acquire*
27 *and hold real property as follows:*

28 *(1) Property that is conveyed to the industrial loan*
29 *company in full or partial satisfaction of extensions of*
30 *credit previously made in good faith.*

31 *(2) Property that is acquired by the industrial loan*
32 *company (A) at a sale under a mortgage or deed of trust*
33 *held by it or (B) under a judgment or decree in its favor.*

34 *(3) Property that is acquired when necessary to*
35 *prevent or reduce loss arising out of an extension of credit*
36 *or investment previously made in good faith or to prevent*
37 *the elimination of any security interest or lien.*

38 *(b) An industrial loan company shall dispose of any*
39 *real property that is acquired under subdivision (a) and*
40 *that is not held for a purpose described in Section 18040*



1 whenever the industrial loan company can dispose of the
2 real property in a manner sufficient to cover all losses of
3 the company relating to the extension of credit or
4 investment.

5 SEC. 57. Section 18042 of the Financial Code is
6 repealed.

7 ~~18042. The authority of a three-fourths vote of all the~~
8 ~~directors is necessary to authorize the purchase of a lot~~
9 ~~and building necessary as premises for the transaction of~~
10 ~~business as an industrial loan company or to authorize the~~
11 ~~construction of such building.~~

12 SEC. 58. Section 18043 of the Financial Code is
13 repealed.

14 ~~18043. Real property held by an industrial loan~~
15 ~~company shall be conveyed by an instrument under the~~
16 ~~corporate seal of the corporation, signed by the president~~
17 ~~or vice president, and the secretary or assistant secretary.~~

18 SEC. 59. Section 18057 of the Financial Code is
19 repealed.

20 ~~18057. An industrial loan company shall not use any~~
21 ~~advertising nor make any representations which indicate,~~
22 ~~imply or might lead a person to believe that the company~~
23 ~~is a savings association.~~

24 SEC. 60. Section 18059 of the Financial Code is
25 repealed.

26 ~~18059. Advertising pertaining to protection of~~
27 ~~accounts by Thrift Guaranty Corporation of California~~
28 ~~shall be in accordance with Section 18506.~~

29 SEC. 61. Section 18060 of the Financial Code is
30 amended to read:

31 18060. (a) Except as provided in subdivision (b), an
32 industrial loan company—~~which~~ that issues thrift
33 certificates shall not use any thrift advertisement—~~which~~
34 that refers to the industrial loan company's ownership by,
35 or affiliation with, any other entity unless the
36 advertisement also discloses in as prominent a manner
37 and as large a type size as the referenced ownership or
38 affiliation was stated, whether or not the owner or—~~affiliate~~
39 *affiliated company* so named guarantees thrift
40 certificates issued by the industrial loan company.



1 (b) (1) Subdivision (a) applies to an insured company
2 when the other entity guarantees the thrift certificates
3 issued by the insured company.

4 (2) Subdivision (a) does not apply to an insured
5 company when the other entity does not guarantee the
6 thrift certificates issued by the insured company and the
7 advertisement referring to the insured company's
8 ownership by, or affiliation with, the other entity does not
9 state or imply that the assets or reserves of the other
10 entity may be used to guarantee thrift certificates of the
11 insured company.

12 *SEC. 62. Section 18061 of the Financial Code is*
13 *amended to read:*

14 18061. If an industrial loan company refers in any
15 advertisement to rates of charge, discount, charges or
16 costs of loans, ~~the commissioner shall require that they~~
17 *those charges shall* be stated fully and clearly in ~~such a~~
18 *manner as he deems may be* necessary to prevent
19 misunderstanding thereof by prospective borrowers and
20 to give adequate information to prospective borrowers.
21 If the rates or costs advertised do not apply to loans of all
22 classes, this fact shall be clearly indicated in the
23 advertisement.

24 *SEC. 63. Chapter 1.5 (commencing with Section*
25 *18070) is added to Division 7 of the Financial Code, to*
26 *read:*

27
28 *CHAPTER 1.5. TRANSITION PROVISIONS*

29
30 *18070. In this chapter, unless the provision or context*
31 *requires otherwise:*

32 (a) *New "General Corporation Law" means Division*
33 *1 (commencing with Section 100) of Title 1 of the*
34 *Corporations Code, as in effect on and after January 1,*
35 *1977.*

36 (b) *"Prior Industrial Loan Law" means this division, as*
37 *in effect on December 31, 1998.*

38 (c) *"Prior General Corporation Law" means Division*
39 *1 (commencing with Section 100) of Title 1 of the*
40 *Corporations Code, as in effect on December 31, 1976.*



1 (d) “Revised Industrial Banking Law” means this
2 division, as in effect on and after January 1, 1999.

3 (e) “Subject institution” means any corporation
4 incorporated under the laws of this state which is, with
5 the approval of the commissioner, incorporated for the
6 purpose of engaging in, or which is authorized by the
7 commissioner to engage in, the industrial banking
8 business under this division.

9 18071. For purposes of Chapter 23 (commencing with
10 Section 2300) of the new General Corporation Law, in the
11 case of any subject institution existing on January 1, 1979:

12 (a) The term “new law” shall mean the new General
13 Corporation Law, subject, however, to the provisions of
14 Section 18020 of the revised Industrial Banking Law.

15 (b) The term “prior law” shall mean the prior General
16 Corporation Law.

17 (c) The term “effective date” shall mean January 1,
18 1999.

19 18072. (a) (1) Section 18130.01 of the revised
20 Industrial Banking Law shall not apply to any subject
21 institution existing on January 1, 1979, unless and until an
22 amendment of the articles of the subject institution is
23 filed with the Secretary of State pursuant to Section 2302
24 of the new General Corporation Law.

25 (2) An amendment of the articles of a subject
26 institution existing on January 1, 1979, that is filed with the
27 Secretary of State pursuant to Section 2302 of the new
28 General Corporation Law may be adopted by approval of
29 the board alone in accordance with the second sentence
30 of Section 2302 of the new General Corporation Law,
31 notwithstanding the fact that the amendment changes
32 the articles to conform to the provisions of Section
33 18130.01 of the revised Industrial Banking Law.

34 (b) (1) Each subject institution incorporated after
35 January 1, 1979, shall amend its articles to conform to
36 Section 18130.01 of the revised Industrial Banking Law on
37 or before January 1, 2000.

38 (2) An amendment of the articles of a subject
39 institution existing on January 1, 1979, that is filed with the
40 Secretary of State pursuant to Section 2302 of the new



1 *General Corporation Law may be adopted by approval of*
2 *the board alone in accordance with the second sentence*
3 *of Section 2302 of the new General Corporation Law,*
4 *notwithstanding the fact that the amendment changes*
5 *those articles to conform to Section 18130.01 of the revised*
6 *Industrial Loan Law.*

7 18073. Article 5 (commencing with Section 18150.01)
8 of Chapter 2.3 of the revised Industrial Banking Law
9 applies to any distribution to its shareholders made after
10 January 1, 2003, by a subject institution existing on
11 January 1, 1999, except that any distribution effected
12 pursuant to a contract for the purchase or redemption of
13 shares entered into by the subject institution prior to
14 January 1, 1999, may be made if permissible under the
15 applicable provisions of the revised Industrial Banking
16 Law and the new General Corporation Law or under the
17 applicable provisions of the prior Industrial Loan Law
18 and the prior General Corporation Law in effect at the
19 time the contract was entered into.

20 SEC. 64. Section 18100 of the Financial Code is
21 amended to read:

22 18100. When authorized by the commissioner as
23 provided in this chapter, a corporation may be organized
24 under the laws of this state, or an existing California
25 corporation may amend its articles of incorporation, to
26 engage in an industrial loan business. ~~Except as otherwise~~
27 ~~provided in this division, an industrial loan company may~~
28 ~~be incorporated pursuant to Division 1 (commencing~~
29 ~~with Section 100), Title 1, of the Corporations Code.~~

30 SEC. 65. Section 18100.5 of the Financial Code is
31 amended to read:

32 18100.5. Each industrial loan company, other than a
33 premium finance agency, ~~which that~~ has issued and has
34 outstanding thrift obligations shall, as a condition to its
35 authority to conduct business under this division,
36 participate as a member of the Federal Deposit Insurance
37 Corporation, ~~or as a member in the Thrift Guaranty~~
38 ~~Corporation of California in accordance with Chapter 7~~
39 ~~(commencing with Section 18475) and rules established~~
40 ~~by the Board of Directors of Guaranty Corporation.~~



1 SEC. 66. Section 18101 of the Financial Code is
2 amended to read:

3 18101. (a) If the commissioner approves an
4 application to engage in business as an industrial loan
5 company filed pursuant to Article 2 (commencing with
6 Section 18115)—of this chapter, he, the articles or
7 certificate of amendment of the articles shall be
8 submitted to the commissioner for approval. After the
9 articles or the certificate of amendment is approved by
10 the commissioner and the commissioner's approval has
11 been endorsed thereon, the articles or the certificate of
12 amendment shall be filed with the Secretary of State.
13 After the articles or certificate of amendment is filed with
14 the Secretary of State, a copy thereof certified by the
15 Secretary of State shall be filed with the commissioner.

16 (b) After subdivision (a) and Section 18130.01 have
17 been complied with and after all conditions precedent to
18 the issuance of the certificate of authority have been
19 fulfilled, the commissioner shall issue a certificate in
20 duplicate authorizing ~~the organization of the~~
21 corporation, ~~or the amendment of its articles of~~
22 incorporation, and specifying the date on which, and the
23 conditions under which, it may commence business as an
24 industrial loan company, including the place where it will
25 be located to transact the industrial loan business.

26 SEC. 67. Section 18102 of the Financial Code is
27 repealed.

28 18102. ~~The articles of incorporation of an industrial~~
29 ~~loan company, in addition to the statement required by~~
30 ~~subdivision (b) of Section 202 of the Corporations Code,~~
31 ~~shall expressly state that its purpose is to engage in an~~
32 ~~industrial loan business pursuant to this division. The~~
33 ~~Secretary of State shall not file articles for the~~
34 ~~incorporation of an industrial loan company or an~~
35 ~~amendment to the articles of an existing corporation to~~
36 ~~engage in an industrial loan business unless there is filed~~
37 ~~with the Secretary of State a duplicate of the certificate~~
38 ~~issued by the commissioner pursuant to Section 18101.~~

39 SEC. 68. Section 18102 is added to the Financial Code,
40 to read:



1 18102. No industrial loan company shall transact
2 industrial loan business, including, but not limited to,
3 issuing investment certificates, until the commissioner
4 has issued a certificate of authority authorizing it to
5 transact industrial loan business.

6 SEC. 69. Section 18105 is added to the Financial Code,
7 to read:

8 18105. A sale, merger, or conversion involving an
9 industrial loan company and another industrial loan
10 company or similar institution, a bank, or a savings
11 association is subject to Division 1.5 (commencing with
12 Section 4800).

13 SEC. 70. Section 18115 of the Financial Code is
14 amended to read:

15 18115. ~~An~~—(a) Except as otherwise provided in
16 subdivision (b), an application for authority to engage in
17 the industrial loan business shall be in ~~such~~ the form ~~and~~,
18 shall contain ~~such~~ the information ~~as~~, shall be signed in
19 the manner, and shall, if the commissioner so requires, be
20 verified in the manner that the commissioner may
21 require and shall be accompanied by a filing fee of ~~four~~
22 ~~hundred~~ five thousand dollars ~~(\$400)~~ (\$5,000).

23 (b) An application for authority to engage primarily in
24 the business of insurance premium financing as a
25 premium finance agency shall, be in the form, contain the
26 information, be signed in the manner, and, if the
27 commissioner so requires, be verified in the manner that
28 the commissioner may require and shall be accompanied
29 by a filing fee of one thousand dollars (\$1,000).

30 SEC. 71. Section 18116 of the Financial Code is
31 repealed.

32 18116. ~~Upon the filing of an application, the~~
33 ~~commissioner shall make or cause to be made a careful~~
34 ~~investigation and examination relative to the following:~~

35 (a) ~~The background and experience of the organizers~~
36 ~~or incorporators, the proposed officers and managers, and~~
37 ~~the proposed stockholders and directors.~~

38 (b) ~~The need for industrial loan facilities or additional~~
39 ~~industrial loan facilities, as the case may be, in the~~
40 ~~community where the proposed industrial loan company~~



1 is to be located, giving particular consideration to the
2 adequacy of existing industrial loan facilities in the
3 community.

4 (e) The ability of the community to support the
5 proposed industrial loan company, giving consideration
6 to (1) the competition offered by existing industrial loan
7 companies; (2) the previous industrial loan history of the
8 community; and (3) the opportunities for profitable
9 employment of industrial loan funds as indicated by the
10 average demand for credit, the number of potential
11 investors, the volume of industrial loan transactions and
12 the business and industries of the community with
13 particular regard to their stability, diversification and
14 size.

15 (d) Such other facts and circumstances bearing on the
16 proposed industrial loan company as in the opinion of the
17 commissioner may be relevant.

18 *SEC. 72. Section 18117 of the Financial Code is*
19 *amended to read:*

20 18117. The commissioner, upon reasonable notice
21 and opportunity to be heard, may deny the an application
22 for *authority to engage in the industrial loan business for*
23 any of the following reasons:

24 (a) The public convenience and advantage will not be
25 promoted by the establishment of the proposed industrial
26 loan company.

27 (b) The industrial loan company is being formed for a
28 purpose other than the legitimate objectives
29 contemplated by this division.

30 (c)

31 (b) The proposed capital structure is inadequate.

32 (d) Any proposed officer, director, or shareholder of
33 the applicant has, within the last 10 years, (1) been
34 convicted of or pleaded nolo contendere to a crime, or (2)
35 committed any act involving dishonesty, fraud, or deceit,
36 which crime or act is substantially related to the
37 qualifications, functions, or duties of a person engaged in
38 business in accordance with the provisions of this division.

39 (e)



1 (c) *The commissioner has made a negative finding*
2 *under Section 18343 with regard to any proposed officer,*
3 *director, or controlling person, as that term is defined in*
4 *Section 18475, of the proposed industrial loan company.*

5 (d) *The applicant has not complied with all the*
6 *applicable provisions of this division.*

7 ~~(f)~~

8 (e) *The proposed officers and directors do not have*
9 *sufficient banking, industrial loan, finance company, or*
10 *other experience to afford reasonable promise of*
11 *successful operation.*

12 ~~(g)~~

13 (f) *A false statement of a material fact has been made*
14 *in the application.*

15 ~~(h)~~

16 (g) *The applicant or any officer, director, or*
17 *incorporator of the applicant has violated any provision*
18 *of this division or the rules thereunder or any similar*
19 *regulatory scheme of a foreign jurisdiction.*

20 (h) *The proposed business does not have a reasonable*
21 *promise of successful operation.*

22 *SEC. 73. Section 18119 of the Financial Code is*
23 *amended to read:*

24 18119. *Within ~~30~~ 45 days after an application is filed*
25 *for authorization to establish an industrial loan company*
26 *which that intends to sell and issue its investment*
27 *certificates, the commissioner shall give written notice of*
28 *the filing of the application to each industrial loan*
29 *company subject to this division.*

30 *SEC. 74. Section 18120 of the Financial Code is*
31 *repealed.*

32 ~~18120. Before the commissioner issues a certificate of~~
33 ~~authorization to operate as an industrial loan company,~~
34 ~~there must be paid in cash for the benefit of the~~
35 ~~corporation, the minimum capital stock and minimum~~
36 ~~paid-in surplus or reserve required pursuant to Article 3~~
37 ~~(commencing with Section 18130) of this chapter.~~

38 *SEC. 75. Article 3 (commencing with Section 18130)*
39 *of Chapter 2 of Division 7 of the Financial Code is*
40 *repealed.*



1 SEC. 76. Article 4 (commencing with Section 18145)
2 of Chapter 2 of Division 7 of the Financial Code is
3 repealed.

4 SEC. 77. Article 5 (commencing with Section 18165)
5 of Chapter 2 of Division 7 of the Financial Code is
6 repealed.

7 SEC. 78. Chapter 2.3 (commencing with Section
8 18130.01) is added to Division 7 of the Financial Code, to
9 read:

10
11 CHAPTER 2.3. CORPORATE MATTERS

12
13 Article 1. Articles

14
15 18130.01. The articles of an industrial loan company
16 shall state that the purpose of the corporation is to engage
17 in an industrial banking business and any other lawful
18 activities that are not, by applicable laws or regulations,
19 prohibited to an industrial loan company.

20 18130.04. (a) No amendment of the articles of an
21 industrial loan company, other than an amendment set
22 forth in an agreement of merger, or, in a certificate of
23 ownership executed pursuant to Section 1110 of the
24 Corporations Code that requires the approval of the
25 commissioner pursuant to Chapter 4 (commencing with
26 Section 4880) of Division 1.5, shall become effective
27 unless the amendment is approved by the commissioner
28 and the certificate of amendment or other instrument
29 setting forth the amendment is filed with the Secretary
30 of State with the commissioner's approval endorsed
31 thereon. Promptly after the amendment becomes
32 effective, the industrial loan company shall file with the
33 commissioner a copy of the certificate of amendment or
34 other instrument certified by the Secretary of State.

35 (b) Any amendment of the articles of an industrial
36 loan company set forth in an agreement of merger or in
37 a certificate of ownership executed pursuant to Section
38 1110 of the Corporations Code that requires the approval
39 of the commissioner pursuant to Chapter 4 (commencing



1 with Section 4880) of Division 1.5, shall become effective
2 at the time when the merger becomes effective.

3 18130.07. No restated articles of an industrial loan
4 company shall become effective unless the restated
5 articles are approved by the commissioner and the
6 certificate setting forth the restated articles is filed with
7 the Secretary of State with the commissioner's approval
8 endorsed thereon. Promptly after the restated articles
9 become effective, the industrial loan company shall file
10 with the commissioner a copy of the certificate setting
11 forth the restated articles certified by the Secretary of
12 State.

13 18130.11. (a) In this section, "certificate of
14 determination" has the meaning set forth in Section 156
15 of the Corporations Code, subject, however, to the
16 provisions of subdivision (b).

17 (b) No certificate of determination of an industrial
18 loan company shall become effective unless the
19 certificate of determination is approved by the
20 commissioner and is filed with the Secretary of State with
21 the commissioner's approval endorsed thereon. Promptly
22 after the certificate of determination becomes effective,
23 the industrial loan company shall file with the
24 commissioner a copy of the certificate of determination
25 certified by the Secretary of State.

26 18130.14. (a) In this section, "certificate of
27 correction" means a certificate executed and filed with
28 the Secretary of State pursuant to Section 109 of the
29 Corporations Code, subject, however, to the provisions of
30 subdivision (b).

31 (b) No certificate of correction of an industrial loan
32 company shall become effective unless the certificate of
33 correction is approved by the commissioner and is filed
34 with the Secretary of State with the commissioner's
35 approval endorsed thereon. Promptly after the
36 certificate of correction becomes effective, the industrial
37 loan company shall file with the commissioner a copy of
38 the certificate of correction certified by the Secretary of
39 State.



1 18130.17. (a) In this section, “certificate of
2 revocation” means a certificate executed and filed with
3 the Secretary of State pursuant to the second and third
4 sentences of subdivision (c) of Section 110 of the
5 Corporations Code, subject, however, to the provisions of
6 subdivision (b).

7 (b) No certificate of revocation of an industrial loan
8 company shall become effective unless the certificate of
9 revocation is approved by the commissioner and is filed
10 with the Secretary of State with the commissioner’s
11 approval endorsed thereon. Promptly after the
12 certificate of revocation becomes effective, the industrial
13 loan company shall file with the commissioner a copy of
14 the certificate of revocation certified by the Secretary of
15 State.

16

17 Article 2. Directors and Officers

18

19 18135.01. Any reference in this article to the time a
20 notice is provided or sent shall be construed in
21 accordance with Section 118 of the Corporations Code.

22 18135.04. The board of an industrial loan company
23 shall consist of not less than five nor more than 25
24 directors.

25 18135.07. The board of each industrial loan company
26 shall hold a meeting not less than once each calendar
27 quarter. Any regular or special meeting is valid wherever
28 held if held upon written consent of all members of the
29 board provided either before or after the meeting and
30 filed with the secretary of the corporation. Special
31 meetings of the board may be held upon four days’ notice
32 by mail, unless the articles or bylaws provide otherwise,
33 or 24 hours’ notice delivered personally or by telephone
34 or by telecopier, unless the articles or bylaws provide for
35 a shorter period.

36 18135.11. (a) The commissioner, whenever in his or
37 her opinion any such action is necessary or advisable to
38 carry out the purposes and provisions of this division, may
39 call a meeting of the board of an industrial loan company.



1 (b) A meeting of the board of an industrial loan
2 company called by the commissioner shall be held upon
3 four days' notice by mail or 24 hours' notice delivered
4 personally or by telephone or telecopier. The notice shall
5 be provided by the commissioner or, if the commissioner
6 so orders, by an officer of the industrial loan company.

7 (c) A meeting of the board of an industrial loan
8 company called by the commissioner shall be held at any
9 place within this state that may be designated by the
10 commissioner and specified in the notice of the meeting.

11 (d) The expenses of a meeting of the board of the
12 industrial loan company called by the commissioner shall
13 be paid by the industrial loan company.

14 18135.14. The commissioner may, in the name of the
15 people of this state, bring or intervene in an action under
16 Section 304 of the Corporations Code to remove from
17 office any director of an industrial loan company to the
18 same extent as a shareholder of the industrial loan
19 company might bring such an action.

20 18135.17. The commissioner may, in the name of the
21 people of this state, bring or intervene in an action under
22 Section 709 of the Corporations Code to determine the
23 validity of any election or appointment of any director of
24 an industrial loan company to the same extent as a
25 shareholder may do so.

26 18135.21. (a) The commissioner shall be deemed to
27 be a party in interest within the meaning of Section 306
28 of the Corporations Code with respect to an industrial
29 loan company and may, in the name of the people of this
30 state, bring or intervene in an action under Section 306 of
31 the Corporations Code for the appointment of directors
32 of the industrial loan company.

33 (b) The commissioner may, in the name of the people
34 of this state, bring or intervene in an action under Section
35 308 of the Corporations Code for the appointment of a
36 provisional director or directors of an industrial loan
37 company to the same extent as a shareholder who held 50
38 percent of the voting power of the industrial loan
39 company might bring the action.



1 18135.24. (a) For purposes of Section 316 of the
2 Corporations Code, to the extent that the making by an
3 industrial loan company or by any majority-owned
4 subsidiary of an industrial loan company of a distribution
5 to any shareholder of the industrial loan company is
6 contrary to any provision of Article 5 (commencing with
7 Section 18150.01), the making of that distribution shall, to
8 that extent, be deemed to be contrary to Section 500 of
9 the Corporations Code.

10 (b) The commissioner may, in the name of the people
11 of this state, bring or intervene in an action under Section
12 316 of the Corporations Code for the benefit of an
13 industrial loan company against any or all of the directors
14 of the industrial loan company or of any majority-owned
15 subsidiary of the industrial loan company on account of
16 the making of a distribution to any shareholder of the
17 industrial loan company contrary to any provision of
18 Article 5 (commencing with Section 18150.01) of this
19 chapter or any provision of Sections 501, 502, and 503 of
20 the Corporations Code, to the same extent as a creditor
21 of the industrial loan company who did not consent to the
22 illegal distribution and who had a valid claim against the
23 industrial loan company that arose prior to the time of the
24 illegal distribution, and that exceeded the amount of the
25 illegal distribution, might bring such an action in the
26 name of the industrial loan company.

27 18135.27. (a) For purposes of Section 316 of the
28 Corporations Code, the making of a loan or guarantee by
29 an industrial loan company or any other extending of
30 credit by an industrial loan company to any officer,
31 shareholder, or director contrary to any provision of this
32 division shall be deemed to be contrary to Section 315 of
33 the Corporations Code.

34 (b) The commissioner may, in the name of the people
35 of this state, bring or intervene in an action under Section
36 316 of the Corporations Code for the benefit of an
37 industrial loan company against any or all of the directors
38 of the industrial loan company on account of the making
39 of a loan or guarantee or any other extending of credit
40 knowingly contrary to any provision of this division, to the



1 same extent as a creditor of the industrial loan company
2 who did not consent to the illegal making of the loan or
3 guarantee or the other illegal extending of credit and who
4 had a valid claim against the industrial loan company that
5 arose prior to the time of the illegal making of the loan or
6 guarantee or the other illegal extending of credit and that
7 exceeded the amount of loss suffered by the industrial
8 loan company as a result of the illegal making of the loan
9 or guarantee or the other illegal extending of credit,
10 might bring such an action in the name of the industrial
11 loan company.

12 18135.31. An industrial loan company shall not
13 appoint or continue in office any officer, director, or
14 management personnel who do not possess the
15 qualifications required by subdivision (e) of Section
16 18117.

17
18 Article 3. Shares

19
20 18140.01. No industrial loan company shall issue any
21 shares unless the total consideration for the shares is paid
22 in full.

23 18140.04. No industrial loan company shall issue any
24 shares in consideration of either of the following:

25 (a) Services rendered in the organization of the
26 industrial loan company.

27 (b) Any note, whether or not negotiable and whether
28 or not secured, made by the purchaser of the shares.

29 18140.07. An industrial loan company may, with the
30 approval of its board, determine, and from time to time
31 redetermine, the par value of any class or series of its
32 shares unless its articles provide that the shares shall have
33 par value and specify the par value of the shares.

34
35 Article 4. Shareholders' Equity

36
37 18145.01. In determining for purposes of this division
38 whether the shareholders' equity of an industrial loan
39 company or of a proposed industrial loan company is

1 *adequate, the commissioner shall consider the following*
2 *factors:*

3 *(a) The nature and volume of the business of the*
4 *industrial loan company.*

5 *(b) The amount, nature, quality, and liquidity of the*
6 *assets of the industrial loan company.*

7 *(c) The amount and nature of the liabilities*
8 *(including, but not limited to, any capital notes or*
9 *debentures and any contingent liabilities) of the*
10 *industrial loan company.*

11 *(d) The amount and nature of the fixed charges of the*
12 *industrial loan company.*

13 *(e) The history of, and prospects for, the industrial*
14 *loan company to earn and retain income.*

15 *(f) The quality of the operations of the industrial loan*
16 *company.*

17 *(g) The quality of the management of the industrial*
18 *loan company.*

19 *(h) The nature and quality of the ownership of the*
20 *industrial loan company.*

21 *(i) Other factors as are in the opinion of the*
22 *commissioner relevant.*

23 *18145.04. An industrial loan company with deficit*
24 *retained earnings may, with the approval of the holders*
25 *of its outstanding shares, and of the commissioner,*
26 *readjust its accounts in a quasi-reorganization. The*
27 *readjustment may include eliminating the deficit*
28 *retained earnings.*

29 *18145.07. For purposes of any statute, regulation, or*
30 *requirement of any governmental official or agency that*
31 *refers to the capital (including stated capital, paid-in*
32 *capital, and paid-up capital, but excluding contributed*
33 *capital), surplus, or undivided profits of an industrial loan*
34 *company, an industrial loan company may, with the*
35 *approval of its board, establish and maintain capital,*
36 *surplus, and undivided profits accounts and may from*
37 *time to time allocate and reallocate its shareholders'*
38 *equity among the accounts, subject to the following:*



1 (a) No part of the contributed capital of the industrial
2 loan company shall be allocated to the undivided profits
3 account of the industrial loan company.

4 (b) The undivided profits account of the industrial
5 loan company shall at no time exceed the retained
6 earnings of the industrial loan company.

7 (c) In case the articles of the industrial loan company
8 provide that any of the industrial loan company's shares
9 shall have par value and specify the par value of the shares
10 or in case the industrial loan company has determined the
11 par value of any of its shares pursuant to Section 51362, the
12 capital account of the industrial loan company shall be not
13 less than the aggregate par value of the shares that are
14 outstanding.

15

16 Article 5. Distributions to Shareholders

17

18 18150.01. This article does not apply to any
19 distribution made to the shareholders of an industrial loan
20 company in any proceeding to wind up and dissolve or to
21 liquidate the industrial loan company.

22 18150.04. Section 500 of the Corporations Code does
23 not apply to the making by an industrial loan company or
24 by any majority-owned subsidiary of an industrial loan
25 company of any distribution to the shareholders of the
26 industrial loan company.

27 18150.07. Except as otherwise provided in Sections
28 18150.11 and 18150.14, neither an industrial loan company
29 nor any majority-owned subsidiary of an industrial loan
30 company shall make any distribution to the shareholders
31 of the industrial loan company in an amount that exceeds
32 the lesser of the following:

33 (a) The retained earnings of the industrial loan
34 company.

35 (b) The net income of the industrial loan company for
36 its last three fiscal years, less the amount of any
37 distributions made by the industrial loan company or by
38 any majority-owned subsidiary of the industrial loan
39 company to the shareholders of the industrial loan
40 company during the period.



1 18150.11. Notwithstanding Section 18150.07, an
2 industrial loan company or a majority-owned subsidiary
3 of an industrial loan company may, with the prior
4 approval of the commissioner, make a distribution to the
5 shareholders of the industrial loan company in an amount
6 not exceeding the greatest of the following:

7 (a) The retained earnings of the industrial loan
8 company.

9 (b) The net income of the industrial loan company for
10 its last fiscal year.

11 (c) The net income of the industrial loan company for
12 its current fiscal year.

13 18150.14. Notwithstanding the provisions of Section
14 18150.07, an industrial loan company may make either of
15 the following distributions:

16 (a) With the prior approval of the commissioner, an
17 industrial loan company may make a distribution to its
18 shareholders by means of redeeming its redeemable
19 shares.

20 (b) With the prior approval of its outstanding shares
21 and of the commissioner, an industrial loan company may
22 otherwise make a distribution to its shareholders in
23 connection with a reduction of its contributed capital.

24 18150.17. If the commissioner finds that the
25 shareholders' equity of an industrial loan company is not
26 adequate or that the making by an industrial loan
27 company or by any majority-owned subsidiary of an
28 industrial loan company of a distribution to the
29 shareholders of the industrial loan company would be
30 unsafe or unsound for the industrial loan company, the
31 commissioner may order the industrial loan company and
32 its majority-owned subsidiaries not to make any
33 distribution to the shareholders of the industrial loan
34 company.

35 18150.21. (a) For purposes of Section 506 of the
36 Corporations Code, the making by an industrial loan
37 company or by any majority-owned subsidiary of an
38 industrial loan company of a distribution to any
39 shareholder of the industrial loan company in violation of
40 any provision of this article shall be deemed to be



1 prohibited by, and to be a violation of, Section 500 of the
2 Corporations Code.

3 (b) The commissioner may, in the name of the people
4 of this state, bring or intervene in an action under Section
5 506 Of the Corporations Code for the benefit of an
6 industrial loan company or its holding company against
7 any shareholder of the industrial loan company or any
8 shareholder of the holding company on account of
9 receiving, with knowledge of facts indicating the
10 impropriety thereof, any distribution prohibited by any
11 provision of this article or by any provision of Sections 501,
12 502, and 503 of the Corporations Code, to the same extent
13 as a creditor of the industrial loan company or the holding
14 company who did not consent to the illegal distribution
15 to the shareholder and who had a valid claim against the
16 industrial loan company or the holding company that
17 arose prior to the time of the illegal distribution to the
18 shareholder and that exceeded the amount of the illegal
19 distribution to the shareholder, might bring such an
20 action in the name of the industrial loan company or the
21 holding company.

22 SEC. 79. Chapter 2.7 (commencing with Section
23 18160.01) is added to Division 7 of the Financial Code, to
24 read:

25
26 CHAPTER 2.7. OFFICES

27
28 Article 1. General

29
30 18160.01. No industrial loan company shall transact
31 business except at an office that it is authorized under this
32 division to establish and maintain and, at which it is
33 permitted by this division, to transact the business
34 transacted.

35 18160.04. No industrial loan company shall establish
36 and maintain an office without a certificate of authority
37 from the commissioner.

38



Article 2. *Head Office*1
2

3 *18165.01. An industrial loan company shall maintain*
4 *its head office in this state.*

5 *18165.04. An industrial loan company may change the*
6 *location of its head office, any branch office, or any facility*
7 *with the approval of the commissioner. An application for*
8 *approval of relocation shall be in the form, shall contain*
9 *the information, shall be signed in the manner, and shall,*
10 *if the commissioner so requires, be verified in the manner*
11 *that the commissioner may specify, and shall be*
12 *accompanied by a fee of two hundred fifty dollars (\$250).*

13 *18165.07. (a) As used in this section “redesignation of*
14 *the head office and a branch office” means the relocation*
15 *by an industrial loan company of its head office to the site*
16 *of a branch office in this state and the concurrent*
17 *establishment by the industrial loan company of a branch*
18 *office at the former site of the head office.*

19 *(b) A redesignation of the head office and a branch*
20 *office is not subject to Section 18165.04 or to Article 3*
21 *(commencing with Section 18175.01) of this chapter.*

22 *(c) An industrial loan company may effect a*
23 *redesignation of the head office and a branch office, if it*
24 *files with the commissioner a report on the proposed*
25 *redesignation not less than 30 days before the*
26 *redesignation. The report shall be in the form, shall*
27 *contain the information, shall be signed in the manner,*
28 *and shall, if the commissioner so requires, be verified in*
29 *the manner the commissioner may specify.*

30 *(d) Whenever an industrial loan company effects a*
31 *redesignation of the head office and a branch office:*

32 *(1) The industrial loan company shall surrender to the*
33 *commissioner for cancellation the certificate of authority*
34 *for the head office at the original site and the certificate*
35 *of authority for the branch office where it is relocating the*
36 *head office. The commissioner shall issue to the industrial*
37 *loan company a new certificate of authority authorizing*
38 *the industrial loan company to maintain the head office*
39 *at the new site and a new certificate of authority*
40 *authorizing the industrial loan company to establish and*



1 operate a branch office at the former site of the head
2 office. The industrial loan company shall remit to the
3 commissioner a fee of twenty-five dollars (\$25) for each
4 new certificate.

5 (2) In the event that the industrial loan company has
6 any other certificates of authority that list the industrial
7 loan company's head office at the former site, the
8 industrial loan company shall surrender the certificates to
9 the commissioner for cancellation. The commissioner
10 shall issue to the industrial loan company replacement
11 certificates listing the industrial loan company's head
12 office at the new site, and the industrial loan company
13 shall remit to the commissioner a fee of twenty-five
14 dollars (\$25) for each replacement certificate.

15
16 Article 3. Exemptions

17
18 18170.01. (a) In issuing an exemption under this
19 article, the commissioner may impose any conditions that
20 he or she determines to be necessary or appropriate.

21 (b) The commissioner may, by order or regulation,
22 exempt from the requirement of filing an application for
23 authority to establish an office set forth in Section
24 18175.01 or subdivision (a) of Section 18180.01, and from
25 the requirement that the commissioner approve the
26 application, that the commissioner finds is not necessary
27 or advisable to regulate under that section.

28 (c) The commissioner may, by order or regulation,
29 exempt from the requirement of filing an application for
30 approval of any relocation of an office set forth in Section
31 18165.04, and from the requirement that the
32 commissioner approve the application, that the
33 commissioner finds is not necessary or advisable to
34 regulate under that section.

35
36 Article 4. Branch Offices

37
38 18175.01. Except as provided in Section 18170.01, an
39 industrial loan company shall file an application for
40 authority to establish a new branch office. The

1 application shall be in the form, shall contain the
2 information, shall be signed in the manner, and shall, if
3 the commissioner so requires, be verified in the manner
4 that the commissioner may require and shall be
5 accompanied by an application fee of one thousand
6 dollars (\$1,000) for each new branch office.

7 18175.04. In deciding an application to establish a
8 branch office, the commissioner shall consider the
9 following:

10 (a) The financial history and condition of the
11 industrial loan company.

12 (b) The adequacy of the shareholders' equity in the
13 industrial loan company.

14 (c) The future earnings prospects of the industrial loan
15 company.

16 (d) The management of the industrial loan company.

17 18175.07. After an application for approval to
18 establish a branch office is approved and all conditions
19 precedent have been fulfilled, the commissioner shall
20 issue a certificate of authority in duplicate authorizing the
21 industrial loan company to operate the branch office. The
22 commissioner shall cause one copy to be transmitted to
23 the applicant and the other copy to be filed in the
24 department.

25 18175.11. The failure of an industrial loan company to
26 open and operate a branch office within one year after
27 the commissioner approves the application therefor shall
28 automatically terminate the right of the industrial loan
29 company to open the branch office except that the
30 commissioner, for good cause on written application
31 made before the expiration of the one-year period and
32 accompanied by a fee of one hundred dollars (\$100), may
33 extend for additional periods not in excess of one year
34 each the time within which the branch office may be
35 opened.

36 18175.14. An industrial loan company that opens a
37 branch office without first obtaining the approval of the
38 commissioner shall forfeit to the people of the state the
39 sum of one hundred dollars (\$100) for every day during
40 which the branch office is maintained without authority,



1 *subject to waiver or adjustment by the commissioner for*
2 *good cause shown.*

3 *18175.17. An industrial loan company that maintains*
4 *a branch office or branch offices shall attach to each*
5 *branch office maintained by it a specific designation by*
6 *name or number and include in the designation the word*
7 *“branch” or the word “office” and shall prominently*
8 *display the designation at the place of business of the*
9 *branch.*

10 *18175.21. (a) An industrial loan company may close*
11 *or discontinue the operation of any branch office if, prior*
12 *to the closing or discontinuance:*

13 *(1) The industrial loan company files a notice.*

14 *(2) The commissioner within 45 days after the filing of*
15 *the notice, or any longer period to which the industrial*
16 *loan company consents, either (A) issues a statement not*
17 *objecting to the notice or (B) does not issue an objection*
18 *to the notice.*

19 *(b) A notice filed under subdivision (a) shall contain*
20 *the information shall be in the form, shall be signed in the*
21 *manner; and shall, if the commissioner requires, be*
22 *verified in the manner; that the commissioner may*
23 *require.*

24 *(c) For purposes of subdivision (a), a notice is deemed*
25 *to be filed with the commissioner at the time the*
26 *complete notice, including any amendments or*
27 *supplements, containing all the information required by*
28 *the commissioner, and otherwise complying with*
29 *subdivision (b), is received by the commissioner.*

30 *(d) In determining whether or not to object to a notice*
31 *filed under subdivision (a), except if the commissioner*
32 *finds that it is necessary in the interests of safety and*
33 *soundness that the branch office be closed or*
34 *discontinued, the commissioner shall consider, among*
35 *other matters, whether or not the closing or*
36 *discontinuance of the branch office will have a seriously*
37 *adverse effect upon the public convenience or*
38 *advantage.*

39



Article 5. Facilities

1
2

3 18180.01. For purposes of this division, “facility”
4 means any office, other than the head office or any branch
5 office, at which an industrial loan company transacts
6 business, but at which it does not offer or sell investment
7 certificates. An industrial loan company may solicit and
8 make loans and acquire obligations at a facility.

9 18180.04. (a) Except as provided in Section 18170.01,
10 an industrial loan company shall file an application for
11 authority to establish a new facility. The application shall
12 be in the form, shall contain the information, shall be
13 signed in the manner, and shall, if the commissioner so
14 requires, be verified in the manner that the commissioner
15 may require, and shall be accompanied by a processing
16 fee of two hundred dollars (\$200) for each facility.

17 (b) In deciding an application to establish a facility,
18 the commissioner shall consider the following factors:

19 (1) Whether the proposed plan of business would
20 violate any of the laws or the regulations of the state in
21 which the office is proposed to be located.

22 (2) Whether the company has adequate internal
23 controls to manage the business proposed to be
24 conducted at the facility.

25 (c) After the application for approval to establish a
26 facility is approved and all conditions precedent have
27 been fulfilled to the establishment of the facility, the
28 commissioner shall issue a certificate of authority in
29 duplicate authorizing the applicant to maintain the
30 facility. The commissioner shall cause one copy to be
31 transmitted to the applicant and the other copy to be filed
32 in the department.

33 (d) An industrial loan company that has been
34 approved by the commissioner pursuant to subdivision
35 (c) to solicit and make loans and acquire obligations at a
36 facility shall comply with all of the following:

37 (1) No investment certificates shall be solicited,
38 offered, or sold at the facility.

39 (2) Loan files for loans originating at the facility shall
40 be retained at the head office or any branch office of the



1 industrial loan company, and all loans originating at the
2 facility shall be coded in a manner so as to easily identify
3 that facility.

4 (3) The facility shall not be identified in any manner
5 as a branch office of the industrial loan company.

6 (4) If the facility is outside of this state, the industrial
7 loan company shall, not less than five business days before
8 commencing business at that facility, file with the
9 commissioner a report that states the industrial loan
10 company has complied with all laws of that state
11 applicable to the establishment and operation of the
12 facility, and that contains a copy of any document issued
13 by the state agency, if any, having jurisdiction over the
14 proposed establishment and operation of the facility
15 authorizing the industrial loan company to maintain the
16 facility.

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

21 (6) Any other conditions and limitations that the
22 commissioner may specify.

23 (e) An industrial loan company that opens a facility
24 without authorization under this chapter shall be liable
25 for a civil penalty of one hundred dollars (\$100) for every
26 day during which the facility is maintained without
27 approval, subject to waiver or adjustment by the
28 commissioner for good cause shown.

29 (f) The commissioner may by regulation or order
30 permit loans to be made or entered into and loans and
31 obligations solicited and acquired at places other than at
32 an office of an industrial loan company if the loans can be
33 so made consistent with the purposes of the Industrial
34 Loan Law.

35 SEC. 80. Section 18190 of the Financial Code is
36 amended to read:

37 18190. An industrial loan company may:

38 (a) Loan money, secured or unsecured, with or
39 without the pledge of its installment investment
40 certificates.



1 (b) Collect and receive charges for loans in advance or
2 otherwise.

3 (c) Purchase, sell, or discount the following
4 obligations: bona fide trust receipts, secured or unsecured
5 choses in action, conditional sales contracts, or security
6 agreements.

7 (d) *Purchase, sell, discount, or originate lease*
8 *obligations.*

9 *SEC. 81. Section 18205 of the Financial Code is*
10 *amended to read:*

11 18205. Except as otherwise provided for in this
12 division, an industrial loan company shall not make any
13 loan or purchase or discount any other obligation that
14 provides for a repayment of principal over more than—120
15 180 months and 30 days.

16 *SEC. 82. Section 18205.5 of the Financial Code is*
17 *amended to read:*

18 18205.5. Notwithstanding any other provision of this
19 division, an industrial loan company may make a loan or
20 acquire an obligation that is repayable in unequal
21 periodic payments during its term and that is secured by
22 either real property or personal property.—In order to
23 ensure the safety and soundness of industrial loan
24 companies and to avoid an unreasonable concentration of
25 loans and obligations that could result in balloon
26 payments, all these loans and obligations with a term in
27 excess of 10 years shall be repaid in substantially equal
28 weekly, semimonthly, monthly, or quarterly installments
29 during the term. For purposes of this section, “real
30 property” means real property other than home loans
31 and other residential real property loans subject to Title
32 VIII (Alternative Mortgage Transaction Parity Act of
33 1982) of the Garn St. Germain Depository Institutions
34 Act of 1982, as those terms are defined in Part 541 of Title
35 12 of the Code of Federal Regulations, as amended. For
36 purposes of this section, the term of a nonconsumer loan
37 or a nonconsumer obligation secured solely or primarily
38 by personal property shall not exceed 15 years and 30 days
39 from the date the loan is made or obligation is acquired
40 by the industrial loan company. For purposes of this



1 ~~section, the term of a nonconsumer loan or a~~
2 ~~nonconsumer obligation secured primarily by real~~
3 ~~property shall be as set forth in subdivision (a) of Section~~
4 ~~18210.~~

5 *SEC. 83. Section 18206 of the Financial Code is*
6 *repealed.*

7 ~~18206. Consumer loans made and obligations~~
8 ~~acquired that are secured by a motor vehicle and~~
9 ~~repayable other than in equal periodic payments during~~
10 ~~its term shall not exceed 50 percent of all consumer loans~~
11 ~~and obligations that are secured by motor vehicles or 20~~
12 ~~percent of assets, whichever is less. This section shall not~~
13 ~~apply to a loan made to a graduate student while~~
14 ~~attending an accredited college or university and for the~~
15 ~~purpose of actively pursuing a study program leading to~~
16 ~~a postbaccalaureate degree.~~

17 *SEC. 84. Section 18208 of the Financial Code is*
18 *amended to read:*

19 18208. An industrial loan company may make a
20 consumer loan in which the principal and charges are
21 payable at any time during the loan, provided that the
22 loan is secured at all times at least 100 percent by ~~either~~
23 investment certificates of an industrial loan company
24 authorized to conduct business in the State of California
25 under this division ~~or traded securities.~~

26 *SEC. 85. Section 18210 of the Financial Code is*
27 *amended to read:*

28 18210. (a) ~~Except as provided in Sections 18205.5 and~~
29 ~~18209 and subject to subdivisions (b) and (d), an~~ *An*
30 ~~industrial loan company shall not~~ *may* make any loan or
31 purchase or discount any note *or other obligation* secured
32 ~~primarily~~ by real property ~~unless provided~~ the loan or
33 other obligation is repayable in ~~substantially equal~~
34 weekly, semimonthly, monthly, or quarterly installments
35 during its term, ~~which~~ *that* shall not exceed 30 years and
36 30 days from the date the loan or other obligation is made
37 or acquired by the company. ~~Equal installment~~
38 ~~requirements shall not apply to adjustable or variable rate~~
39 ~~loans or obligations made or purchased by the industrial~~
40 ~~loan company in accordance with Title VIII of the~~



1 ~~Garn-St. Germaine Depository Institutions Act of 1982~~
2 ~~and any applicable regulations, guidelines, and policies~~
3 ~~adopted thereunder.~~ However, an industrial loan
4 company may make loans secured by first trust deeds on
5 real property containing single family, or one to four
6 residential, units provided that the repayment period for
7 each loan does not exceed 40 years and 30 days from the
8 date the loan is made by the company. All loans with
9 repayment periods in excess of 30 years and 30 days shall
10 not exceed in the aggregate 5 percent of all outstanding
11 loans and obligations of the company.

12 ~~(b) Any consumer loan or any purchase or discount of~~
13 ~~any consumer obligation having a term in excess of three~~
14 ~~years from the date the loan or other obligation is made~~
15 ~~or acquired by the company shall be secured solely by real~~
16 ~~property or solely by personal property. However, if the~~
17 ~~original principal amount of the consumer loan or~~
18 ~~obligation is twenty thousand dollars (\$20,000) or more,~~
19 ~~then the loan or obligation shall be secured solely by real~~
20 ~~property or solely by personal property, or by both real~~
21 ~~property and personal property. All loans and obligations~~
22 ~~made and purchased pursuant to this subdivision shall be~~
23 ~~repayable in installments and within a term not to exceed~~
24 ~~the limitations set forth in subdivision (a), except that~~
25 ~~consumer loans or obligations secured solely by personal~~
26 ~~property shall have a term not to exceed the term~~
27 ~~provided for in Section 18205 and except as otherwise~~
28 ~~may be provided for in Sections 18207, 18208, and 18209.~~
29 ~~The equal installment requirements set forth in~~
30 ~~subdivision (a) shall not apply to loans or obligations~~
31 ~~made or purchased by the industrial loan company in~~
32 ~~accordance with Title VIII of the Garn-St. Germaine~~
33 ~~Depository Institutions Act of 1982 and any applicable~~
34 ~~regulations, guidelines, and policies adopted thereunder.~~

35 ~~(c) Notwithstanding any other provision of this~~
36 ~~division, an industrial loan company may make loans and~~
37 ~~acquire or discount obligations having a term in excess of~~
38 ~~seven years secured primarily by real property pursuant~~
39 ~~to subdivision (a) or secured solely or primarily by real~~
40 ~~property pursuant to subdivision (b), provided that all of~~



1 ~~the loans and obligations in excess of seven years shall not~~
2 ~~in the aggregate exceed 70 percent of the industrial loan~~
3 ~~company's total assets. For purposes of this subdivision,~~
4 ~~the following loans and obligations are considered as~~
5 ~~having a term of less than seven years:~~

6 ~~(1) Any loan or obligation guaranteed or insured by~~
7 ~~any federal or state agency.~~

8 ~~(2) Any loans or obligations that meet all of the~~
9 ~~following conditions:~~

10 ~~(A) Are for the purchase or refinance of single or~~
11 ~~multifamily residential property.~~

12 ~~(B) Are saleable in the secondary market. "Saleable in~~
13 ~~the secondary market" for purposes of this subparagraph~~
14 ~~means saleable to qualified institutional buyers, as~~
15 ~~evidenced by irrevocable commitments to buy by those~~
16 ~~qualified institutional buyers.~~

17 ~~(C) Are owned by the industrial loan company for 90~~
18 ~~days or less.~~

19 ~~(d) In order to ensure the safety and soundness of~~
20 ~~industrial loan companies and to avoid an unreasonable~~
21 ~~concentration of loans and obligations that could result in~~
22 ~~balloon payments, all loans and obligations specified in~~
23 ~~subdivision (c) with a term in excess of 15 years and 30~~
24 ~~days shall be repaid in substantially equal weekly,~~
25 ~~semimonthly, monthly, or quarterly installments during~~
26 ~~their term.~~

27 *SEC. 86. Section 18216 of the Financial Code is*
28 *amended to read:*

29 18216. (a) Notwithstanding Section 18211, an
30 appraisal fee may be charged to an applicant or borrower
31 by an industrial loan company in connection with an
32 application or request for any loan having a face amount
33 in excess of five thousand dollars (\$5,000) that is secured
34 primarily by real property whether or not the loan is
35 made. That fee shall not exceed the actual cost of the
36 appraisal. ~~The appraisal shall be rendered to the~~
37 ~~industrial loan company in writing by a qualified~~
38 ~~appraiser approved pursuant to Title XI of the Financial~~
39 ~~Institutions Reform, Recovery, and Enforcement Act of~~
40 ~~1989, Public Law 101-73, and any applicable regulations;~~



1 ~~guidelines, and policies adopted thereunder.~~ Only one
2 fee for appraising the same real property made in
3 connection with the same applicant or borrower may be
4 collected unless (1) the applicant or borrower has
5 obtained a new or additional loan and more than one year
6 has elapsed since the prior appraisal or (2) *the loan*
7 *agreement authorizes appraisals during the term of the*
8 *loan.* The fee is not included in charges as defined in this
9 division or in computing the maximum charges that may
10 be made under this division.

11 (b) If an appraisal fee is charged, a copy of the
12 appraisal report shall be provided by the industrial loan
13 company upon the request of the borrower or applicant
14 at or before the closing of a loan transaction.

15 *SEC. 87. Section 18218 of the Financial Code is*
16 *amended to read:*

17 18218. Notwithstanding any other provision of this
18 division, an industrial loan company, in the collection of
19 a delinquent loan ~~of an unpaid principal balance,~~ may do
20 any of the following:

21 (a) Collect and receive the court costs and reasonable
22 attorney's fees allowed by a court in a judgment against
23 a defaulting debtor.

24 (b) Contract for, collect, and receive the bona fide
25 expenses actually incurred and paid by the industrial loan
26 company, not exceeding 10 percent of the unpaid
27 principal balance of the loan where no judgment at law
28 is sought.

29 (c) Contract for, collect, and receive the bona fide
30 expenses actually incurred and paid by the industrial loan
31 company in obtaining a certificate of compliance or
32 certificate of noncompliance issued for a motor vehicle
33 pursuant to Part 5 (commencing with Section 43000) of
34 Division 26 of the Health and Safety Code and the rules
35 and regulations of the State Air Resources Board prior to
36 the consignment of the vehicle for sale at public auction,
37 pursuant to Sections 24007 and 24007.5 of the Vehicle
38 Code.

39 *SEC. 88. Section 18230 of the Financial Code is*
40 *repealed.*



1 ~~18230. Each industrial loan company shall display~~
 2 ~~prominently in each place of business a full and accurate~~
 3 ~~schedule of the maximum charges to be made and the~~
 4 ~~method of computing the same. The schedule is subject~~
 5 ~~to the approval of the commissioner.~~

6 SEC. 89. Article 4 (commencing with Section 18245)
 7 is added to Chapter 3 of Division 7 of the Financial Code,
 8 to read:

9

10 *Article 4. Open End Credit Contracts*

11

12 18245. (a) As used in this article, “open end credit
 13 contract” means a revolving note or loan agreement,
 14 credit card account agreement, or other credit contract
 15 pursuant to which a company may permit a borrower,
 16 accountholder, or obligor to receive advances, from time
 17 to time, directly from the company or indirectly by use
 18 of a credit card, check, or other device.

19 (b) An industrial loan company may make, purchase,
 20 or discount both secured and unsecured open-end credit
 21 contracts, providing for either fixed or variable rates, for
 22 either consumer or nonconsumer purposes.

23 (c) Article 2 (commencing with Section 18205) and
 24 Article 6.5 (commencing with Section 18300) shall not
 25 apply to open-end credit contracts made, purchased, or
 26 discounted by an industrial loan company.

27 SEC. 90. Section 18265 of the Financial Code is
 28 amended to read:

29 18265. An industrial loan company that has
 30 investment certificates outstanding shall not make any
 31 loan or purchase or discount any other obligation with a
 32 maturity of more than ~~60~~ 120 months and 15 days unless
 33 ~~all~~ both of the following conditions are met:

34 (a) The loan or other obligation is secured.

35 (b) The property, or collateral securing the loan or
 36 other obligation, is of a kind or class that has been
 37 declared eligible by regulation of the commissioner.

38 ~~(c) The aggregate principal balance of such loans and~~
 39 ~~other obligations outstanding with a remaining maturity~~
 40 ~~of more than 60 months and 15 days at any time shall not~~



1 ~~exceed a percentage of the aggregate principal balance~~
2 ~~due on all loans and other obligations owing to the~~
3 ~~industrial loan company by rule of the commissioner.~~

4 *SEC. 91. Section 18266 of the Financial Code is*
5 *amended to read:*

6 18266. (a) Except as set forth in subdivisions (b) and
7 (c), any loan or obligation made or acquired by an
8 industrial loan company that has investment certificates
9 outstanding that is secured primarily by real property and
10 has an outstanding principal balance of ~~ten~~ *twenty*
11 ~~thousand dollars (\$10,000)~~ *(\$20,000)* or more shall, *for the*
12 *purposes of Sections 18269 and 18271*, be secured by real
13 property having a fair market value, or real property and
14 personal property combined having a fair market value,
15 at the time the loan or other obligation is made or
16 acquired, of at least 110 percent of the principal amount
17 owing on the loan or obligation and on prior
18 encumbrances, except nondelinquent tax liens, secured
19 by the same real property with regard to loans secured
20 solely by real property, or by both real property and
21 personal property. ~~Fair market value of the real property~~
22 ~~for purposes of this section shall be determined by a real~~
23 ~~property appraiser who meets the qualifications~~
24 ~~established pursuant to Title XI of the Financial~~
25 ~~Institutions Reform, Recovery, and Enforcement Act of~~
26 ~~1989, Public Law 101-73, and any applicable regulations,~~
27 ~~guidelines, or policies thereunder.~~

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

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

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

37 (c) Subject to all other provisions of subdivision (a)
38 and any requirements the commissioner may impose by
39 rule or order, the following loans may be secured by real
40 property having a fair market value of less than 110



1 percent of the principal amount of the loan and prior
2 encumbrances:

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

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

13 (3) Any loan or obligation saleable in the secondary
14 market. For purposes of this paragraph, “saleable in the
15 secondary market” means saleable to a qualified
16 institutional buyer, as evidenced by irrevocable
17 commitments to buy by those qualified institutional
18 buyers.

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

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

23 (e) Any loan or obligation made or acquired by an
24 industrial loan company that has investment certificates
25 outstanding that is secured solely by motor vehicles or
26 other personal property shall, *for the purposes of Section*
27 *18271*, be secured by that property having a fair market
28 value at the time the loan or other obligation is made or
29 acquired of at least 100 percent of the principal amount
30 owing on the loan or obligation *or the sale price thereof*.
31 ~~The personal property held as security shall be of a class~~
32 ~~or kind that has been declared eligible by regulation of~~
33 ~~the commissioner.~~

34 *SEC. 92. Section 18266.1 of the Financial Code is*
35 *amended to read:*

36 18266.1. ~~Whenever authorized by the commissioner,~~
37 ~~an~~ *An* industrial loan company may make loans and
38 acquire obligations, the proceeds of which are used for
39 home improvements ~~which that~~ *are primarily* secured by
40 real property having a market value of at least 100



1 percent of the principal amount owing on the loan being
2 made by the industrial loan company or obligation being
3 acquired by the industrial loan company and on prior
4 encumbrances, except nondelinquent tax liens, secured
5 by the same real property. Home improvements means
6 additions, alterations, or modifications to owner-occupied
7 property consisting of one to four dwelling units and
8 appurtenant buildings thereto or to the real property
9 containing same. ~~Home improvement loans subject to
10 this section shall be made only by industrial loan
11 companies whose thrift obligations are insured by the
12 Federal Deposit Insurance Corporation.~~

13 *SEC. 93. Section 18266.2 of the Financial Code is*
14 *repealed.*

15 ~~18266.2. An industrial loan company shall file a
16 written request for authorization to conduct business
17 under Section 18266.1. The request shall include the
18 following information:~~

19 ~~(a) A description of the company's proposed plan of
20 business.~~

21 ~~(b) The character, business qualifications, and other
22 experience of the proposed officers and managers
23 directing the line of business for which authorization is
24 requested.~~

25 ~~(c) Any other facts and circumstances bearing on the
26 proposal that, in the opinion of the commissioner, may be
27 relevant.~~

28 *SEC. 94. Section 18266.3 of the Financial Code is*
29 *repealed.*

30 ~~18266.3. The commissioner shall approve the request
31 made pursuant to Section 18266.2 within 30 days after
32 filing unless the commissioner has ascertained that the
33 company has failed to show either of the following:~~

34 ~~(a) That the proposed plan of business has a reasonable
35 promise of a successful operation.~~

36 ~~(b) That the company has a person with the necessary
37 business qualifications, experience or ability to direct and
38 manage the operations of the plan of business.~~

39 *SEC. 95. Section 18268 of the Financial Code is*
40 *amended to read:*



1 18268. An industrial loan company that has
2 investment certificates outstanding shall not lend in the
3 aggregate more than 5 percent of its ~~capital stock and~~
4 ~~surplus not available for dividends as provided in Section~~
5 ~~18319~~ *shareholders' equity* upon the security of the stock
6 of any one corporation and that stock may not exceed 10
7 percent of the outstanding stock of the corporation, or
8 upon the security of the bonds of any one obligor except
9 bonds of the United States or for the payment of which
10 the credit of the United States is pledged, bonds of the
11 State of California, or for the payment of which the credit
12 of the State of California is pledged, *bonds that are of*
13 *investment grade*, and any security authorized in writing
14 by the commissioner or any security authorized by rule
15 of the commissioner.

16 *SEC. 96. Section 18269 of the Financial Code is*
17 *amended to read:*

18 18269. An industrial loan company that has
19 investment certificates outstanding shall not make any
20 loan secured primarily by improved real property in a
21 principal amount in excess of 20 percent of the company's
22 ~~unimpaired capital stock and surplus not available for~~
23 ~~dividends as provided in Section 18319~~ *shareholders'*
24 *equity*. An industrial loan company that has investment
25 certificates outstanding shall not make any loan secured
26 primarily by unimproved real property in a principal
27 amount in excess of 10 percent of the company's
28 ~~unimpaired capital stock and surplus not available for~~
29 ~~dividends as provided in Section 18319~~ *shareholders'*
30 *equity*.

31 *SEC. 97. Section 18271 of the Financial Code is*
32 *amended to read:*

33 18271. An industrial loan company that has
34 investment certificates outstanding shall not make loans
35 to, or hold the obligations of, any one person as primary
36 obligor in an aggregate principal amount in excess of 20
37 percent of the ~~unimpaired capital stock and surplus of the~~
38 ~~company not available for dividends as provided in~~
39 ~~Section 18319~~ *company's shareholders' equity*. Unsecured
40 loans or obligations of any person as primary obligor made



1 or held by a company may not, in any event, exceed in the
2 aggregate principal amount 5 percent of the ~~unimpaired~~
3 ~~capital stock and surplus of the company not available for~~
4 ~~dividends as provided in Section 18319~~ company's
5 ~~shareholders' equity.~~

6 SEC. 98. Section 18290 of the Financial Code is
7 amended to read:

8 18290. (a) As used in this division:

9 (1) "Credit life insurance" and "credit disability
10 insurance" have the same meanings as defined in Section
11 779.2 of the Insurance Code.

12 (2) "Credit loss-of-income insurance" means
13 insurance issued to provide indemnity for payments
14 becoming due on a specific loan or other credit
15 transaction while the debtor is involuntarily unemployed,
16 as defined in the policy.

17 (b) An industrial loan company may provide and
18 collect the costs for credit life insurance on the life of one
19 or more of the borrowers, or credit disability, or
20 loss-of-income insurance, or any combination of these
21 coverages, to provide indemnity for payments becoming
22 due on the indebtedness, with his or her consent, the form
23 to be approved by the Insurance Commissioner, and a
24 copy, together with evidence of its approval by the
25 Insurance Commissioner, to be filed with the
26 commissioner, and in an amount not in excess of the
27 amount of the indebtedness. ~~The amount charged to the~~
28 ~~borrower for credit life or disability insurance shall not~~
29 ~~exceed, in the case of credit life insurance, fifty cents~~
30 ~~(\$0.50) per year per one hundred dollars (\$100) of~~
31 ~~indebtedness (and in the same proportion for longer or~~
32 ~~shorter maturities and larger or smaller amounts) or the~~
33 ~~amount established by or pursuant to Section 779.35 of the~~
34 ~~Insurance Code, whichever is less, or, in the case of credit~~
35 ~~disability insurance, the amount established by or~~
36 ~~pursuant to Section 779.35 of the Insurance Code.~~

37 SEC. 99. Section 18293 of the Financial Code is
38 amended to read:

39 18293. If credit disability or loss-of-income insurance
40 is provided pursuant to this division, the industrial loan



1 company shall also deliver an understandable written
2 statement to the borrower detailing the conditions when
3 the borrower will be entitled to make a claim under the
4 insurance policy and the procedure to be followed in
5 making the claim. ~~This statement shall be first approved
6 by the commissioner.~~

7 *SEC. 100. Section 18315 of the Financial Code is*
8 *amended to read:*

9 18315. (a) When authorized to conduct business
10 pursuant to this division, an industrial loan company may
11 sell and issue its investment certificates ~~in the form and~~
12 ~~upon the terms approved by the commissioner, and~~
13 subject to the provisions of this division. The
14 commissioner may, by written order directed to a
15 company or by rule or regulation, impose ~~such~~ terms and
16 conditions upon investment certificates and the sale or
17 redemption thereof or the payment of interest thereon,
18 as he deems reasonable and necessary or advisable for the
19 protection of the company or the public, and he may from
20 time to time in his discretion amend, alter or revoke any
21 such order or regulation or any condition or provision
22 thereof.

23 (b) Any change in the form, terms, or provisions of
24 outstanding investment certificates or in the rights,
25 privileges, or restrictions upon the holder or issuer
26 thereof is deemed a sale and issuance of investment
27 certificates ~~and is subject to the prior approval of the~~
28 ~~commissioner pursuant to subdivision (a) of this section.~~

29 (c) The company named in any order issued pursuant
30 to subdivision (a) of this section may, within 15 days after
31 receipt thereof, file with the commissioner its written
32 request for hearing. The filing of ~~such~~ *the* request shall
33 not operate to postpone or suspend the effectiveness of
34 any order issued by the commissioner unless otherwise
35 directed by the commissioner. The commissioner shall,
36 within 15 days after the receipt of ~~such~~ *the* written
37 request or at such later time as may be mutually agreed
38 with the company, cause ~~such~~ *the* matter to be heard and
39 shall thereafter issue his final decision. ~~Such~~ *The* decision



1 may be amended or set aside by the commissioner at any
2 time.

3 (d) Every order or decision of the commissioner made
4 pursuant to this section is subject to judicial review in
5 accordance with law.

6 *SEC. 101. Section 18317 of the Financial Code is*
7 *amended to read:*

8 18317. No company may have investment certificates
9 outstanding with a person or related persons in an
10 aggregate amount in excess of 20 percent of the
11 ~~unimpaired capital stock and surplus shareholders' equity~~
12 ~~of the company not available for dividends as provided in~~
13 ~~Section 18319.~~

14 *SEC. 102. Section 18319 of the Financial Code is*
15 *repealed.*

16 ~~18319. In no event shall an industrial loan company~~
17 ~~have outstanding at any time its investment certificates~~
18 ~~(exclusive of those hypothecated with the company~~
19 ~~issuing them) in an aggregate sum in excess of 20 times~~
20 ~~the aggregate amount of its paid-up and unimpaired~~
21 ~~capital and such of its unimpaired surplus as is declared~~
22 ~~by a bylaw of the company to be not available for cash~~
23 ~~dividends. The commissioner by rule or by order issued~~
24 ~~pursuant to Section 18315, may limit the amount of~~
25 ~~outstanding investment certificates of an industrial loan~~
26 ~~company.~~

27 *SEC. 103. Section 18320 of the Financial Code is*
28 *repealed.*

29 ~~18320. Notwithstanding Section 18319, an industrial~~
30 ~~loan company shall in no event:~~

31 ~~(a) Have outstanding at any time during its first 12~~
32 ~~months of operation as an industrial loan company under~~
33 ~~this division, its investment certificates (exclusive of~~
34 ~~those hypothecated with the company issuing them) in~~
35 ~~an aggregate sum in excess of six times the aggregate~~
36 ~~amount of its paid-up and unimpaired capital and~~
37 ~~unimpaired surplus not available for dividends pursuant~~
38 ~~to Section 18319.~~

39 ~~(b) After 12 months of operation as an industrial loan~~
40 ~~company under this division and during the next 12~~



1 months of operation the industrial loan company may file
2 an application with the commissioner seeking authority
3 to increase the aggregate sum of its investment
4 certificates which (exclusive of those investment
5 certificates hypothecated with the company issuing
6 them) in no event shall exceed eight times the aggregate
7 amount of its paid-up and unimpaired capital and
8 unimpaired surplus not available for dividends pursuant
9 to Section 18319.

10 (e) After 24 months of operation as an industrial loan
11 company under this division and during the next 24
12 months of operation the company may file an application
13 with the commissioner seeking authority to increase the
14 aggregate sum of its investment certificates which
15 (exclusive of those investment certificates hypothecated
16 with the company issuing them) in no event shall exceed
17 12 times the aggregate amount of its paid-up and
18 unimpaired capital and unimpaired surplus not available
19 for dividends pursuant to Section 18319.

20 (d) If after 36 months of operation as an industrial loan
21 company under this division the outstanding investment
22 certificates of a company are insured by the Federal
23 Deposit Insurance Corporation, the company may file an
24 application with the commissioner seeking authority to
25 increase the aggregate sum of its investment certificates
26 which it may have outstanding to the extent authorized
27 by the capital adequacy requirements of the federal
28 Deposit Insurance Corporation. An industrial loan
29 company that is authorized to increase the aggregate sum
30 of its investment certificates to the extent authorized by
31 the capital adequacy requirements of the Federal
32 Deposit Insurance Corporation also shall meet the
33 requirements of subdivisions (e) and (f).

34 (e) After 48 months of operation as an industrial loan
35 company under this division and during the next 12
36 months of operation the company may file an application
37 with the commissioner seeking authority to increase the
38 aggregate sum of its investment certificates which,
39 exclusive of those investment certificates hypothecated
40 with the company issuing them, in no event shall exceed



1 ~~15 times the aggregate amount of its paid-up and~~
2 ~~unimpaired capital and unimpaired surplus not available~~
3 ~~for dividends pursuant to Section 18319, only if both of the~~
4 ~~following requirements are met:~~

5 ~~(1) A company shall maintain a liquidity reserve in~~
6 ~~cash, or cash equivalent, equal to 1½ percent of its total~~
7 ~~investment certificates outstanding. “Cash equivalent”~~
8 ~~means investments legal for commercial banks under the~~
9 ~~laws of this state, with a maturity of not more than 12~~
10 ~~months.~~

11 ~~(2) In addition to the reserve for losses required by the~~
12 ~~commissioner pursuant to Section 18343, a company shall~~
13 ~~establish and maintain such special reserves for losses as~~
14 ~~the commissioner, by rule or order, may require.~~

15 ~~(f) After 60 months of operation as an industrial loan~~
16 ~~company under this division, the company may file an~~
17 ~~application with the commissioner seeking authority to~~
18 ~~increase the aggregate sum of its investment certificates~~
19 ~~which it may have outstanding, which, exclusive of those~~
20 ~~investment certificates hypothecated with the company~~
21 ~~issuing them, in no event shall exceed 20 times the~~
22 ~~aggregate amount of its paid-up and unimpaired capital~~
23 ~~and unimpaired surplus not available for dividends~~
24 ~~pursuant to Section 18319, and which may exceed 15 times~~
25 ~~the amount of its paid-up and unimpaired capital and~~
26 ~~unimpaired surplus not available for dividends pursuant~~
27 ~~to Section 18319 only if the requirements of subdivision~~
28 ~~(e) are met and the capital stock is not less than one~~
29 ~~million two hundred fifty thousand dollars (\$1,250,000)~~
30 ~~and the unimpaired paid-in surplus is not less than seven~~
31 ~~hundred fifty thousand dollars (\$750,000).~~

32 ~~(g) Whenever the commissioner deems it reasonable~~
33 ~~and necessary or advisable for the protection of the public~~
34 ~~(including the fact that an industrial loan company is not~~
35 ~~a member of the Federal Deposit Insurance~~
36 ~~Corporation), the commissioner may at any time by order~~
37 ~~authorize said industrial loan company to have its~~
38 ~~investment certificates outstanding in either a lesser~~
39 ~~aggregate sum than the maximum aggregate amounts~~



1 ~~permitted by subdivision (a), (b), (c), (d), (e), or (f), or~~
2 ~~none at all.~~

3 ~~(h) The request for authority filed with the~~
4 ~~commissioner pursuant to subdivisions (b), (c), (d), (e),~~
5 ~~and (f) shall be set forth in an application in such form~~
6 ~~and containing such information as the commissioner~~
7 ~~may require.~~

8 ~~(i) The commissioner shall by rule or regulation set~~
9 ~~forth the criteria that must be met before an industrial~~
10 ~~loan company can be granted authority to increase the~~
11 ~~aggregate sum of its outstanding investment certificates.~~

12 ~~(j) If the commissioner does not within 60 days of the~~
13 ~~filing of an application grant a request by an industrial~~
14 ~~loan company operating under this division, for authority~~
15 ~~to increase the aggregate sum of its outstanding~~
16 ~~investment certificates to the requested amount, or issues~~
17 ~~an order pursuant to subdivision (g), the company may~~
18 ~~file with the commissioner its written request for hearing~~
19 ~~in accordance with subdivisions (c) and (d) of Section~~
20 ~~18315.~~

21 *SEC. 104. Section 18321 of the Financial Code is*
22 *amended to read:*

23 18321. (a) Nothing in this division authorizes an
24 *insured* industrial loan company to receive *demand*
25 deposits.

26 (b) Subject to Section 18315, an industrial loan
27 company that is a member of the Federal Deposit
28 Insurance Corporation pursuant to Section 18521.5 may
29 use the term “*deposit*,” and may use the term “certificate
30 of deposit” as defined in Section 18003.6 with respect to
31 an investment certificate that does not authorize either
32 of the following:

- 33 (1) Redemption prior to its maturity.
- 34 (2) Reduction of the interest rate payable thereon
35 other than a variable interest rate.

36 *SEC. 105. Section 18341 of the Financial Code is*
37 *amended to read:*

38 18341. The administration of this division shall be
39 supported out of the ~~State Corporations Fund~~ *Financial*
40 *Institutions Fund.*



1 SEC. 106. Section 18436 of the Financial Code is
2 amended to read:

3 18436. An industrial loan company shall not, directly
4 or indirectly, make any loan of money or property to or
5 guarantee the obligation of any of its directors or officers,
6 or officers and directors of ~~its~~ any holding company, or
7 officers and directors of ~~its~~ affiliates any affiliated
8 company, except in conformity with Article 2
9 (commencing with Section 3371) of Chapter 18 of
10 Division 1, which shall apply to industrial loan companies
11 with the same force and effect as commercial banks.

12 SEC. 107. Section 18437 of the Financial Code is
13 repealed.

14 ~~18437. (a) Except as provided in subdivision (b), an~~
15 ~~industrial loan company shall not make loans to, or~~
16 ~~purchase any obligations from, persons who do not reside~~
17 ~~or have a place of business in the State of California, unless~~
18 ~~those loans or obligations comply with all of the following~~
19 ~~conditions:~~

20 ~~(1) If the loan or obligation is unsecured, then only if~~
21 ~~the loan or obligation bears the unqualified written~~
22 ~~guaranty of a financially responsible person, considering~~
23 ~~the amount of the obligation, who resides or has a place~~
24 ~~of business in the State of California.~~

25 ~~(2) If the documents and security for the loan or~~
26 ~~obligation and all records relating to the transaction are~~
27 ~~in California at the time the loan or obligation is made or~~
28 ~~acquired and are thereafter kept in California while the~~
29 ~~loan or obligation remains unsatisfied, except that where~~
30 ~~the security is aircraft, the security need not be in~~
31 ~~California at the time the loan or obligation is made or~~
32 ~~acquired, nor need it thereafter be held in California~~
33 ~~while the loan or obligation remains unsatisfied.~~

34 ~~(b) Notwithstanding subdivision (a), an industrial~~
35 ~~loan company may make loans to, or purchase any~~
36 ~~obligations from, persons who do not reside or have a~~
37 ~~place of business in the State of California not to exceed~~
38 ~~20 percent, in the aggregate, of an industrial loan~~
39 ~~company's total assets. Upon application to and approval~~
40 ~~by the commissioner, an industrial loan company may~~



1 ~~increase its loans to, or purchases of, obligations from~~
2 ~~persons who do not reside or have a place of business in~~
3 ~~this state not to exceed 40 percent, in the aggregate, of an~~
4 ~~industrial loan company's total assets. The application~~
5 ~~shall include all of the following information:~~

6 ~~(1) A description of the company's proposed plan of~~
7 ~~business.~~

8 ~~(2) The character, business qualifications, and other~~
9 ~~experience of the proposed officers and managers~~
10 ~~directing the line of business for which authorization is~~
11 ~~requested.~~

12 ~~(3) Any other facts and circumstances bearing on the~~
13 ~~proposal that, as determined by the commissioner, may~~
14 ~~be relevant.~~

15 ~~(e) This section does not apply to loans made to, or~~
16 ~~acquired from, persons who do not reside or have a place~~
17 ~~of business in this state if all of the following conditions are~~
18 ~~met:~~

19 ~~(1) The loans are for the purchase or refinance of~~
20 ~~single or multi-family residential property.~~

21 ~~(2) The loans are saleable in the secondary market as~~
22 ~~evidenced by commitments to buy by a buyer in the~~
23 ~~secondary market.~~

24 ~~(3) The loans are owned by the industrial loan~~
25 ~~company for 90 days or less.~~

26 *SEC. 108. Section 18438 of the Financial Code is*
27 *amended to read:*

28 18438. If a loan is made or other thing is purchased or
29 discounted in violation of Section 18271, 18272, ~~18273~~, or
30 18274, ~~or 18437~~, the officers, directors and shareholders of
31 the industrial loan company, ~~its any~~ holding company, or
32 ~~its affiliates~~ *any affiliated company* participating therein
33 or knowingly approving the same shall be personally
34 liable for any loss suffered by the industrial loan company
35 by reason thereof.

36 *SEC. 109. Section 18441 of the Financial Code is*
37 *amended to read:*

38 18441. No person in connection with or incidental to
39 the making of any loan under this division, shall require
40 the borrower to contract for, purchase, or agree to



1 purchase anything in connection with the loan *except an*
2 *appraisal report covering collateral title insurance, toxic*
3 *and environmental reports and any other surveys and*
4 *reports to ensure the safety and soundness of the loan. A*
5 *policy of insurance of the type specified in Article 6*
6 *(commencing with Section 18290) of Chapter 3 of this*
7 *division is not prohibited by this section.*

8 No person shall require a borrower to enter into any
9 collateral sales agreement or contract except as expressly
10 permitted by this division.

11 *SEC. 110. Section 18442 of the Financial Code is*
12 *repealed.*

13 ~~18442. An industrial loan company shall not make any~~
14 ~~loan of money or property to or guarantee the obligation~~
15 ~~of any person upon the security of its capital (including~~
16 ~~the shares of capital stock) of the company, its holding~~
17 ~~company, or its affiliates.~~

18 *SEC. 111. Section 18442 is added to the Financial*
19 *Code, to read:*

20 *18442. (a) For purposes of this section, the following*
21 *terms have the following meanings:*

22 (1) “Carrying a security” means maintaining,
23 reducing, or retiring indebtedness originally incurred to
24 acquire a security.

25 (2) “Controlling person” has the same meaning
26 specified in Section 18160.

27 (3) “Security” has the following meanings:

28 (A) When used with respect to an industrial loan
29 company, “security” has the same meaning set forth in
30 subdivision (c) of Section 18427.

31 (B) When used with respect to any other person,
32 “security” has the same meaning set forth in Section
33 25019 of the Corporations Code.

34 (b) No industrial loan company shall acquire, hold,
35 extend credit on the security of, or extend credit for the
36 purpose of acquiring or carrying, any security of the
37 industrial loan company or of any controlling person of
38 the industrial loan company.

39 (c) (1) Any industrial loan company that acquires or
40 holds securities in violation of this section shall be liable



1 to the people of this state for twice the market, book, or
2 face value of the securities, whichever is greatest.

3 (2) Any industrial loan company that extends credit in
4 violation of this section shall be liable to the people of this
5 state for twice the amount of the credit so extended.

6 (d) This section does not apply to any of the following
7 transactions:

8 (1) Any acquisition or extension of credit by an
9 industrial loan company that is necessary to reduce or
10 prevent loss to the industrial loan company on debts
11 previously contracted in good faith.

12 (2) Any redemption by an industrial loan company of
13 any of its redeemable securities in accordance with
14 applicable provisions of this division and of Division 1
15 (commencing with Section 100) of Title 1 of the
16 Corporations Code.

17 (3) Any acquisition by an industrial loan company of
18 any of its securities, other than an acquisition of the type
19 described in paragraph (1) or (2), if the acquisition is
20 approved in advance by the commissioner.

21 SEC. 112. Section 18445 of the Financial Code is
22 amended to read:

23 18445. Any director, officer, or employee of an
24 industrial loan company, ~~its~~ any holding company, or ~~its~~
25 ~~affiliates~~ any affiliated company who unlawfully asks for
26 or receives, or consents or agrees to receive any
27 commission, emolument, or gratuity or any money,
28 property, or thing of value for procuring or endeavoring
29 to procure for any person any loan from ~~such~~ the
30 company, or the purchase or discount of any note,
31 contract, or other obligation or property by ~~such~~ the
32 company, is guilty of a felony.

33 SEC. 113. Section 18446 of the Financial Code is
34 amended to read:

35 18446. Any director, officer, or employee of an
36 industrial loan company, ~~its~~ any holding company, or ~~its~~
37 ~~affiliates~~ any affiliated company who knowingly receives
38 or possesses himself of any of its property otherwise than
39 in payment of a just demand, or with intent to defraud,
40 omits to make or causes to be made a full and true entry



1 thereof in its books and accounts or concurs in omitting
2 to make any material entry thereof, is guilty of a felony.

3 *SEC. 114. Section 18447 of the Financial Code is*
4 *amended to read:*

5 18447. Any director, officer, or employee of an
6 industrial loan company, ~~its~~ any holding company, or ~~its~~
7 ~~affiliates~~ any affiliated company who knowingly makes or
8 concurs in making or publishing any false entry in its
9 books or records, any written report, exhibit, or statement
10 of its affairs or pecuniary condition containing any
11 material statement ~~which~~ that is false, or having the
12 custody of its books, willfully refuses or neglects to make
13 any proper entry in ~~such~~ the books as required by law, or
14 to exhibit or allow the same to be inspected or extracts to
15 be taken therefrom by the commissioner or his deputies
16 or ~~investigators~~ examiners, is guilty of a felony.

17 *SEC. 115. Section 18448 of the Financial Code is*
18 *amended to read:*

19 18448. No director, officer, stockholder, or employee
20 of an industrial loan company, ~~its~~ any holding company,
21 or ~~its~~ ~~affiliates~~ any affiliated company shall purchase,
22 directly or indirectly, or be interested in the purchase of,
23 any of the company's assets for an amount less than the
24 then current market value thereof and any such purchase
25 may not be made without the express approval of the
26 board of directors of the company. Title and possession of
27 assets shall not be transferred to the purchaser until full
28 consideration in cash has been received by the industrial
29 loan company. Every person violating this section shall be
30 liable to the ~~company~~ people of this state for twice the
31 difference, if any, between the market value and the
32 purchase price of the assets so purchased.

33 *SEC. 116. Section 18448.1 is added to the Financial*
34 *Code, to read:*

35 18448.1. (a) In this section, "subject person" means
36 any director, officer, stockholder, or employee of an
37 industrial loan company, any holding company, or any
38 affiliated company.

39 (b) No industrial loan company shall purchase any real
40 or personal property or any interest in real or personal



1 *property, including, but not limited to, a leasehold, or any*
2 *contract arising from the sale of real or personal property*
3 *or any note or bond in which any subject person of the*
4 *industrial loan company is personally or financially*
5 *interested, directly or indirectly, for the person's own*
6 *account, for the person, or as the partner or agent of*
7 *others, without first obtaining the consent of the*
8 *commissioner.*

9 *SEC. 117. Section 18448.2 is added to the Financial*
10 *Code, to read:*

11 *18448.2. (a) In this section, "subject person" has the*
12 *meaning set forth in subdivision (a) of Section 18448.1.*

13 *(b) No subject person of an industrial loan company*
14 *shall purchase, directly or indirectly, or be interested in*
15 *the purchase of any of the industrial loan company's*
16 *obligations or assets for an amount less than the book*
17 *value thereof, unless all the directors of the industrial loan*
18 *company previously approve the purchase by resolution,*
19 *and a copy of the resolution is transmitted to the*
20 *commissioner immediately after adoption. Every person*
21 *violating this section shall be liable to the people of this*
22 *state, for each offense, for twice the difference, if any,*
23 *between the book value and purchase price of the assets*
24 *so purchased.*

25 *SEC. 118. Section 18450 of the Financial Code is*
26 *amended to read:*

27 *18450. A director, officer, or employee of an industrial*
28 *loan company, ~~its any holding company, or its affiliates~~*
29 *any affiliated company who concurs in any vote or act by*
30 *which it is intended to make a loan or purchase a contract*
31 *in violation of this division, is guilty of a misdemeanor.*

32 *SEC. 119. Section 18451 of the Financial Code is*
33 *amended to read:*

34 *18451. A director, officer, or employee of an industrial*
35 *loan company, ~~its any holding company, or its affiliates~~*
36 *any affiliated company who makes or maintains, or*
37 *attempts to make or maintain, a deposit of ~~such~~ the*
38 *company's funds with any other person on condition, or*
39 *with the understanding, express or implied, that the*
40 *person receiving ~~such~~ the deposit make a loan or*



1 advance, directly or indirectly, to ~~any~~ *the* director,
2 officer, or employee ~~of the company~~ so making or
3 maintaining or attempting to make or maintain ~~such~~ *the*
4 deposit, is guilty of a misdemeanor.

5 *SEC. 120. Section 18452 of the Financial Code is*
6 *amended to read:*

7 18452. Every officer or employee of an industrial loan
8 company, ~~its any~~ holding company, or ~~its affiliates any~~
9 *affiliated company* who sells investment or thrift
10 certificates knowing that the company is insolvent, is
11 guilty of a misdemeanor.

12 *SEC. 121. Section 18454 of the Financial Code is*
13 *amended to read:*

14 18454. Any director, officer, agent or employee of an
15 industrial loan company, ~~its any~~ holding company, or ~~its~~
16 ~~affiliates any~~ *affiliated company* who willfully makes a
17 false or untrue entry in any book or record or in any
18 report, tag, or statement of the business, affairs, or
19 condition, or in connection with any transaction of ~~such~~
20 *the* company, with intent to deceive any officer, director,
21 or employee thereof, or any agent or examiner, private or
22 official, employed or lawfully appointed to examine into
23 its condition or any of its affairs or transactions, or to any
24 public officer who has authority to examine into its affairs
25 or transactions, or who, with like intent, willfully omits to
26 make a new entry of any matter particularly pertaining
27 to the business property condition, affairs, transactions,
28 assets or accounts of ~~such~~ *the* company in any book,
29 record, report, statement, or tag of such company, or who,
30 with like intent, alters, abstracts, conceals, or destroys any
31 book, record, report, statement, or tag of such company
32 made, written, or kept, or required to be made, written,
33 or kept by him or under his direction, is guilty of a felony.

34 *SEC. 122. Section 18455 of the Financial Code is*
35 *amended to read:*

36 18455. An industrial loan company shall not, directly
37 or indirectly, ~~make any loan to, or purchase for an amount~~
38 ~~less than its fair market value~~ a contract, loan, ~~or~~ chose in
39 action ~~from, hold a lease obligation of, or purchase a~~ *or*
40 lease contract from, any of the following:



1 (a) A person who is an officer or director of the
2 industrial loan company, or of its *any* holding *company*,
3 or *any* affiliated company.

4 (b) A person who is a holder of record or beneficiary
5 of the shares of the industrial loan company, or of any
6 holding *company*, or *any* affiliated company. This
7 restriction shall not apply to persons holding less than 10
8 percent of the shares of a *any* holding company or
9 affiliated company that is exempt from the qualification
10 requirements of the Corporate Securities Law of 1968
11 contained in Section 25130 of the Corporations Code,
12 pursuant to subdivision (a) or (b) of Section 25101 of the
13 Corporations Code.

14 ~~(c) A person in which an officer or director of the
15 industrial loan company or of any holding or affiliated
16 company directly or indirectly is financially interested,
17 directly or indirectly.~~

18 ~~(d) A person in which the holder of record or
19 beneficiary of the shares of the industrial loan company
20 or of any holding or affiliated company directly or
21 indirectly is financially interested, directly or indirectly.
22 This restriction shall not apply to persons holding less
23 than 10 percent of the shares of a holding company or
24 affiliated company that is exempt from the qualification
25 requirements of the Corporate Securities Law of 1968
26 contained in Section 25130 of the Corporations Code,
27 pursuant to subdivision (a) or (b) of Section 25101 of the
28 Corporations Code.~~

29 ~~(e) A person who acquired those contracts directly or
30 indirectly or through intervening assignments from a
31 person described in subdivision (a), (b), (c), or (d).~~

32 ~~Any officer, director, or shareholder of an industrial
33 loan company who directly or indirectly makes or
34 procures, or participates in making or procuring, a loan
35 or contract in violation of this section or knowingly
36 approves the same is personally liable for any loss
37 resulting to an industrial loan company from the loan or
38 contract, in addition to any other penalties provided by
39 law.~~

40 (f)



1 (c) The prohibition contained in this section shall not
2 apply to the purchase by an industrial loan company of a
3 contract, loan, or chose in action from a finance lender,
4 as described in Section 22009, a mortgage broker, a
5 mortgage banker, a real estate broker or other licensed
6 lender, provided written authorization for the purchase
7 is obtained from the commissioner.

8 ~~(g)~~

9 (d) The prohibition contained in this section shall not
10 apply to the purchase of life insurance by an industrial
11 loan company on behalf of an officer or director as part
12 of the officer's or director's employee benefit plan
13 package.

14 ~~(h)~~

15 (e) The prohibition contained in this section shall not
16 apply to the following transactions:

17 (1) A transaction between an industrial loan company
18 and a subsidiary corporation or other entity in which the
19 industrial loan company is the owner of 50 percent or
20 more of the common stock or equity interest, or directly
21 controls the management of the corporation or other
22 entity.

23 (2) The purchase of loans or other obligations by an
24 industrial loan company from an affiliated company
25 pursuant to a sale and repurchase agreement.

26 *SEC. 123. Chapter 7 (commencing with Section*
27 *18475) of Division 7 of the Financial Code is repealed.*

28 *SEC. 124. Chapter 7 (commencing with Section*
29 *18475) is added to Division 7 of the Financial Code, to*
30 *read:*

31

32 *CHAPTER 7. ACQUISITION OF CONTROL*

33

34 *18475. (a) No person may acquire in the aggregate 10*
35 *percent or more of the capital stock of, or the capital of,*
36 *an industrial loan company through purchase,*
37 *foreclosure pursuant to a pledge or hypothecation, or*
38 *other devices without the written consent of the*
39 *commissioner. Prior to any person acquiring 10 percent*
40 *or more of the capital stock of, or the capital of, an*



1 industrial loan company, or prior to any person acquiring
2 additional capital stock or capital of an industrial loan
3 company which would result in an aggregate acquisition
4 of 10 percent or more of the capital stock or of the capital,
5 that person seeking the acquisition shall make written
6 application to the commissioner requesting written
7 consent for the acquisition.

8 (b) No person may acquire in the aggregate 10
9 percent or more of the capital stock or other securities
10 that have voting power or control over the management
11 of a holding company as defined in Section 18025 through
12 purchase, foreclosure pursuant to a pledge or
13 hypothecation, or otherwise without the written consent
14 of the commissioner. Prior to any person acquiring 10
15 percent or more of the capital stock or other securities
16 that have voting power or control over the management
17 of a holding company as described herein, or prior to any
18 person acquiring additional capital stock or other
19 securities that have voting power or control over the
20 management of a holding company as described herein
21 which would result in an aggregate acquisition of 10
22 percent or more of the capital stock or other securities, or
23 prior to any person acquiring 10 percent or more of the
24 capital stock or other securities that have voting power or
25 control over the management of a holding company as
26 described herein, through the conversion of a security
27 into another security or through the exercise of a right to
28 purchase or subscribe to another security, that person
29 seeking the acquisition shall make written application to
30 the commissioner requesting written consent for the
31 acquisition notwithstanding subdivision (e) of Section
32 25017 of the Corporations Code.

33 (c) With respect to the application required to be filed
34 under subdivisions (a) and (b), the commissioner shall
35 consent in writing or decline to consent within 60 days of
36 the filing of a completed application.

37 (d) An application for consent under subdivision (a)
38 or (b) shall be in the form and contain information as the
39 commissioner may by rule or order require and shall be
40 accompanied by a fee of four hundred dollars (\$400).



1 SEC. 125. Section 18563 of the Financial Code is
2 amended to read:

3 18563. As used in this chapter, “premium financing”
4 means the activities of a company engaging in the
5 business of advancing money directly or indirectly to an
6 insurer or producer at the request of an insured pursuant
7 to the terms of a premium finance agreement, wherein
8 the insured has assigned the unearned premiums,
9 accrued dividends or loss payments as security for such
10 advancement in payment of premiums on insurance
11 contracts only, *and acquiring premium finance*
12 *agreements*, and does not include the financing of
13 insurance contract premiums purchased in connection
14 with the financing of goods and services. The amount of
15 such advancement in payment of premiums must bear a
16 reasonable relationship to the premium or premiums
17 being financed.

18 SEC. 126. Section 18582 of the Financial Code is
19 repealed.

20 ~~18582. Capital stock of any premium finance agency~~
21 ~~shall not be less than seventy-five thousand dollars~~
22 ~~(\$75,000) and need not exceed that sum regardless of the~~
23 ~~number of branch offices or business locations which may~~
24 ~~be authorized under the provisions of this division.~~

25 SEC. 127. Section 18583 of the Financial Code is
26 amended to read:

27 18583. Before a premium finance agency commences
28 business or opens a branch office or place of business,
29 there must be paid in cash, for the benefit of the agency,
30 100 percent of the amount of the minimum ~~capital stock~~
31 *shareholders’ equity* required under this chapter.

32 SEC. 128. Section 18586 of the Financial Code is
33 amended to read:

34 18586. The provisions of Sections 18020.6, 18023,
35 18024, ~~18120, 18136,~~ 18205, 18268, 18269, 18271, 18272,
36 18273, 18274, 18350, and 18455 shall not apply to a
37 premium finance agency.

38 SEC. 129. Section 18594 of the Financial Code is
39 amended to read:



1 18594. Any corporation organized as an industrial
2 loan company other than a premium finance agency shall
3 conduct any insurance premium financing business
4 under the authority of this chapter and it shall be subject
5 to all of the provisions of this chapter in respect to such
6 business, as if it were ~~organized hereunder except that no~~
7 ~~cumulative capitalization requirement shall be imposed~~
8 *a premium finance agency.*

O

