

AMENDED IN ASSEMBLY MAY 12, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1536

Introduced by Assembly Member Robert Pacheco

February 26, 1999

An act to amend ~~Sections 3359 and~~ *Section 3371* of the Financial Code, relating to banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1536, as amended, Robert Pacheco. Banks: extension of credit.

Existing state law provides that no bank shall acquire, hold, extend credit on the security of, or extend credit for the purpose of acquiring or carrying, any security of the bank or of any controlling person of the bank. An "extension of credit" for these purposes is defined in a specified regulation of the Federal Reserve Board.

This bill would make certain technical, nonsubstantive changes in those provisions.

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

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

1 ~~SECTION 1. Section 3359 of the Financial Code is~~
2 ~~amended to read:~~
3 ~~3359. (a) For purposes of this section, the following~~
4 ~~terms have the following meanings:~~

1 ~~(1) “Carrying a security” means maintaining,~~
2 ~~reducing, or retiring indebtedness originally incurred to~~
3 ~~acquire a security.~~

4 ~~(2) “Controlling person” has the same meaning as that~~
5 ~~specified in Section 700.~~

6 ~~(3) “Security” has the following meanings:~~

7 ~~(A) When used with respect to a bank, “security” has~~
8 ~~the same meaning as that set forth in subdivision (c) of~~
9 ~~Section 690.~~

10 ~~(B) When used with respect to any other person,~~
11 ~~“security” has the same meaning as that set forth in~~
12 ~~Section 25019 of the Corporations Code.~~

13 ~~(b) No bank shall acquire, hold, extend credit on the~~
14 ~~security of, or extend credit for the purpose of acquiring~~
15 ~~or carrying, any security of the bank or of any controlling~~
16 ~~person of the bank.~~

17 ~~(e) (1) Any bank that acquires or holds securities in~~
18 ~~violation of this section shall be liable to the people of this~~
19 ~~state for twice the market, book, or face value of the~~
20 ~~securities, whichever is greatest.~~

21 ~~(2) Any bank that extends credit in violation of this~~
22 ~~section shall be liable to the people of this state for twice~~
23 ~~the amount of the credit so extended.~~

24 ~~(d) This section does not apply to any of the following~~
25 ~~transactions:~~

26 ~~(1) Any acquisition or extension of credit by a bank~~
27 ~~that is necessary to reduce or prevent loss to the bank on~~
28 ~~debts previously contracted in good faith.~~

29 ~~(2) Any redemption by a bank of any of its redeemable~~
30 ~~shares in accordance with the applicable provisions of this~~
31 ~~division and of Division 1 (commencing with Section 100)~~
32 ~~of Title 1 of the Corporations Code.~~

33 ~~(3) Any acquisition by a bank of any of its shares, other~~
34 ~~than an acquisition of the type described in paragraph (1)~~
35 ~~or (2), if the acquisition is approved in advance by the~~
36 ~~commissioner.~~

37 ~~SEC. 2.~~

38 ~~SECTION 1.~~ Section 3371 of the Financial Code is
39 amended to read:

40 3371. As used in this article:



1 (a) “Bank” means:

2 (1) Any commercial bank or trust company
3 incorporated under the laws of this state.

4 (2) Any foreign (other nation) bank that is licensed by
5 the commissioner under Article 3 (commencing with
6 Section 1750) of Chapter 13.5 of this division to maintain
7 a depository agency or branch office (as defined in
8 Section 1700) in this state, with respect to any office of
9 that type.

10 (3) Any corporation incorporated under the laws of
11 this state that is incorporated for the purpose of engaging
12 in, or that is authorized by the commissioner to engage in,
13 business under Article 1 (commencing with Section 3500)
14 of Chapter 19.

15 (4) Any foreign corporation that is licensed by the
16 commissioner under Article 1 (commencing with Section
17 3500) of Chapter 19 of this division to maintain an office
18 in this state and to transact at the office business under
19 that article, with respect to any office of that type.

20 (5) When used to designate a person that extends
21 credit, any subsidiary of a bank, as defined in paragraph
22 (1), (2), (3), or (4).

23 (b) “Company” has the meaning set forth in
24 subdivision (b) of Section 215.2 of Regulation O.

25 (c) “Executive officer” has the meaning set forth in
26 paragraph (1) of subdivision (e) of Section 215.2 of
27 Regulation O. Also, “executive officer,” when used with
28 respect to any bank of the type described in paragraph
29 (2) or (4) of subdivision (a), includes the manager of each
30 office of the type referred to in paragraph (2) or (4) of
31 subdivision (a) that the bank maintains in this state.

32 (d) “Extension of credit” has the meaning set forth in
33 Section 215.3 of Regulation O. However, for purposes of
34 this subdivision, the term “member bank,” as used in
35 Section 215.3, means a bank.

36 (e) “Regulation O” means Regulation O (Part 215
37 (commencing with Section 215.1) of Title 12 of the Code
38 of Federal Regulations) of the Board of Governors of the
39 Federal Reserve System, as amended *from time to time*.



1 (f) “Subsidiary” has the meaning set forth in Section
2 1841(d) of Title 12 of the United States Code. However,
3 for purposes of this subdivision, the term “bank holding
4 company,” as used in Section 1841(d) of Title 12 of the
5 United States Code, means a bank holding company, as
6 defined in Section 1841(a) of Title 12 of the United States
7 Code, or a bank, and the term “board,” as used in Section
8 1841(d) of Title 12 of the United States Code, means the
9 commissioner.

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