

CHAPTER 53

INDUSTRIAL LOAN AND THRIFT COMPANIES

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NOTE: "Commissioner" means commissioner of banks. See sections 46.03 and 46.04.

53.01 ORGANIZATION.

It is lawful for three or more persons, who desire to form a corporation for the purpose of carrying on primarily the business of loaning money in small amounts to persons within the conditions set forth in this chapter, to organize, under this chapter, an industrial loan and thrift company, by filing with the secretary of state and the county recorder in the county in which the place of business of the corporation is located, a certificate of incorporation, and upon paying the fees prescribed by sections 301.07 and 301.071 and upon compliance with the procedure provided for the organization and government of ordinary corporations under the laws of this state, and upon compliance with the additional requirements of this chapter prior to receiving authorization to do business.

History: 1933 c 246 s 1; 1943 c 67 s 1; 1976 c 181 s 2; 1980 c 541 s 2 (7774-25)

53.015 DEFINITIONS.

Subdivision 1. For the purposes of this chapter, the terms defined in this section shall have the meanings given them.

Subd. 2. "Paid-in capital" means consideration received in excess of the par value of preferred or common stock.

Subd. 3. "Invested income" means the net remaining funds resulting from the operation of the corporation and shall include, but not be limited to retained earnings, earned surplus, undivided profits and current earnings.

Subd. 4. "Donated capital" means all funds contributed by the stockholders, other than funds received in connection with the issuance of stock, and such amounts transferred from invested income, either by declaration of a share dividend or by action of the board of directors.

Subd. 5. "Contributed capital" means the sum total of all funds contributed to the corporation by the stockholders and shall include, but not be limited to preferred stock, common stock, paid-in capital and donated capital.

Subd. 6. "Appropriated reserves" means dedicated funds transferred from invested income by action of the board of directors, which dedicated funds shall otherwise be known as a capital reserve.

History: 1971 c 442 s 1

53.02 CAPITAL.

No corporation shall be organized under this chapter or qualified to do business thereunder with a capital represented by shares of common stock of less than \$25,000 in cities with less than 50,000 people; \$50,000 in cities with more than 50,000 people and less than 100,000 people; and \$75,000 in cities with 100,000 people, or more, according to the last official census; each share of that common stock to have a par value of not less than \$1 per share. No corporation

shall begin doing business under this chapter unless the required capital is fully paid, and unless a paid-in capital of no less than ten percent of that required capital shall have also been fully paid and set up. After the required capital of a corporation organized or doing business under this chapter shall have been fully paid and a paid-in capital of not less than ten percent thereof also fully paid and set up, additional capital stock in that corporation may be sold at not less than par, provided, however, that there is always maintained a paid-in capital of at least ten percent of the capital of the corporation represented by shares of common stock.

History: 1933 c 246 s 2; 1943 c 67 s 2; 1947 c 20 s 1; 1971 c 442 s 2 (7774-26)

53.03 CERTIFICATE.

Subdivision 1. **Application, fee, notice.** Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, cause an application, in writing, to be made to the department of commerce for a certificate of authorization. The application, in triplicate, shall be in the form prescribed by the department of commerce and filed in its office. The application shall be made in the name of the corporation, executed and acknowledged by two of its officers designated by the board of directors of the corporation for that purpose, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay a filing fee of \$500, to be paid into the state treasury and credited to the general fund and also shall pay to the commissioner of banks the sum of \$250 as a fee for investigating the application, which fee shall be turned over by him to the state treasurer and credited to the general fund of the state, and submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto. A notice of the filing of the application shall be published once in the form prescribed by the department of commerce, at the expense of the applicant, in a newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be no such newspaper, in a newspaper published at the county seat of the county in which the company is proposed to be located. If the department of commerce receives a written objection to the application from any person within 20 days of the notice having been fully published a contested case hearing shall be conducted on the application. The commerce commission may without cause order a contested case hearing on the application. Notice of a hearing in connection with this section shall be published once in the form prescribed by the department of commerce, at the expense of the applicant, in the same manner as a notice of application.

Subd. 2. **Department of commerce; duties.** Upon receiving an application the department of commerce shall make, or cause to be made, an examination to ascertain whether the assets of such corporation, over and above all its liabilities, have an actual value of not less than the par value of all of its capital represented by shares of common stock, which shall not be less than the amount prescribed by section 53.02. If upon its investigation or hearing provided for in subdivision 1 those facts appear and it further appears that the bylaws and articles of incorporation and amendments thereto are in accordance with law; that the shareholders of the corporation are of good moral character and financial integrity; that there is a reasonable public demand for that company in the location specified in the application, and that the probable volume of business in that location is sufficient to insure and maintain the solvency of such company and the solvency of any then existing industrial loan and thrift companies or banks in that locality, without endangering the safety of any such company or bank in the

locality as a place for investing or depositing public and private money, and that the proposed company will be properly and safely managed, the application shall be granted; otherwise it shall be denied.

Subd. 2a. Selection, change of name. Before filing the certificate of incorporation or an amendment to it the proposed name of the industrial loan and thrift company shall be submitted to the commissioner, who shall compare it with those of other corporations operating in the state. If it is likely to be mistaken for any of them, or to confuse the public as to the character of its business, or is otherwise objectionable, additional names shall be submitted. When a satisfactory name is selected, the commissioner shall give written approval of it and issue an amended certificate of authorization.

Subd. 3. [Repealed, 1977 c 346 s 14]

Subd. 3a. If the application be granted without hearing the department of commerce shall, not later than 60 days after the notice of application has been fully published, issue a certificate authorizing the corporation to transact business as an industrial loan and thrift company as provided in this chapter. If the application be denied without hearing the department of commerce shall, not later than 60 days after the notice of application has been fully published, notify the corporation of the denial and the reasons for the denial. The applicant may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the application which shall then be conducted as if no order of denial had been issued. If the commission approves the application after a hearing the commission shall, not later than 30 days after a hearing, issue a certificate authorizing the corporation to transact business as an industrial loan and thrift company as provided in this chapter. If the application be denied after a hearing the commission shall, not later than 30 days after a hearing, notify the corporation of the denial.

Subd. 4. Filing certificate. The certificate of authorization granted shall be filed in the places specified for filing the certificate of incorporation in section 53.01. The corporation shall thereupon become an industrial loan and thrift company.

Subd. 5. Place of business. Not more than one place of business shall be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, Chapter 67, pursuant to the provisions of this chapter, but the department of commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. Where a corporation has been issued more than one certificate of authorization, such corporation shall allocate a portion of contributed capital to each office for which such certificate has been issued, in order to comply with the capital requirements of section 53.02 and section 53.05, clauses (2) and (3) which sections shall be applicable to each such office and the capital allocated thereto in the same manner as if each certificate had been issued to a separate corporation. Each additional certificate of authorization issued pursuant to the provisions of this subdivision shall be filed with the secretary of state and the county recorder of the county in which the corporation is authorized to do business thereunder. Any such corporation may change one or more of its locations upon the written approval of the commissioner of banks.

History: 1933 c 246 s 3; 1943 c 67 s 3; 1947 c 20 s 2; 1951 c 70 s 1; 1969 c 347 s 2; 1969 c 399 s 1; 1969 c 1129 art 4 s 10; 1971 c 442 s 3; 1976 c 181 s 2?; 1976 c 235 s 1; 1977 c 346 s 5-7; 1978 c 674 s 12 (7774-27)

53.04 SPECIAL POWERS.

Subdivision 1. Industrial loan and thrift companies, in addition to the general and usual powers incidental to ordinary corporations in this state, which are not specifically restricted in this chapter, shall have the special powers enumerated in subdivisions 2 to 6, which powers must be set forth in their articles of incorporation or amendments thereto.

Subd. 2. The right to discount or purchase notes, bills of exchange, acceptances or other choses in action.

Subd. 3. The right to loan money upon the security of co-makers, personal chattels or other property, exclusive of real estate, for a period not to exceed 60 months; to deduct in advance interest on such loans for the full period of such loans at a rate not in excess of eight percent discount per annum for loans which provide for a repayment period not exceeding 36 months; seven and three-fourths percent discount per annum for loans which provide for a repayment period exceeding 36 months but not exceeding 42 months; seven and one-half percent discount per annum for loans which provide for a repayment period exceeding 42 months but not exceeding 48 months; seven and one-fourth percent discount per annum for loans which provide for a repayment period exceeding 48 months but not exceeding 54 months; seven percent discount per annum for loans which provide for a repayment period exceeding 54 months but not exceeding 60 months; to require as a condition to the making of such a loan that the borrower purchase and pledge with the company, as security for the loan, a certificate of indebtedness of the company in the same amount as the loan secured thereby, providing for payments in equal weekly, bi-weekly, or monthly installments, with or without interest, extending over substantially the period of the loan, payments thereon not to be construed as payments on the loan secured thereby; to charge for a loan exceeding \$50 made pursuant to this subdivision, \$1 for each \$50, or fraction thereof, loaned, for expenses, including any examination or investigation of the character and circumstances of the borrower, co-maker or security, and drawing and taking the acknowledgment of necessary papers, filing fees, or other expenses incurred in making the loan; provided, that no such charge shall be made on that portion of a loan in excess of \$2,000 and no such charge shall be collected unless a loan shall have been made. The full amount of the investigation charge authorized by this section shall be fully earned at the time a loan is made without regard to the expenses incurred and shall not be deemed interest, provided, however, if a loan for which an investigation charge was made is renewed within twelve months from the date of the loan, then one-twelfth of such investigation charge shall be deemed earned for each month or portion thereof from the date of the loan to the date of renewal, and the balance thereof shall be refunded to the borrower. A loan shall be deemed to be renewed at the time the loan is paid in full if any part of such payment is made out of the proceeds of another loan from the same or an affiliated lender. The borrower may repay the entire balance of such loan at any time before maturity and upon such prepayment the industrial loan and thrift company shall forthwith refund to the borrower a portion of the interest or discount. The amount of such refund shall represent at least as great a proportion of the total interest or discount as the sum of the periodical time balances after the date of prepayment bears to the sum of all the periodical time balances under the schedule of payments in the original loan contract. When that portion of the interest or discount required to be refunded to the borrower amounts to less than \$1 no refund need be made.

For the purpose of calculating such refunds, the commissioner of banks shall furnish a chart giving effect hereto for the use of such companies, which chart shall be followed in calculating refunds.

Subd. 4. To impose a handling charge of five cents for each default in the payment of \$1, or fraction thereof, at the time any periodical installment on a certificate of indebtedness assigned as collateral security for the payment of a loan made pursuant to the foregoing provisions becomes past due for ten days or more; provided, that this handling charge may be collected only once on an installment however long it remains in default; and that the handling charge on any installment shall not exceed \$5. Such handling charge may be collected when due or at any time thereafter; for the purpose of this paragraph, payments shall be applied first to the immediately preceding installment due and then to prior delinquent installments.

Subd. 5. The right, with the consent of the department of commerce, to sell and issue for investment or to be pledged as security for a loan made contemporaneously therewith or otherwise, certificates of indebtedness, under any descriptive name, which may bear such interest, if any, as their terms may provide, and which may require the payment to the company of such amounts, from time to time as their terms may provide, and permit the withdrawal of amounts paid upon the same, in whole or in part, from time to time, and the credit of amounts thereon upon such conditions as may be set forth therein; and no such certificate of indebtedness shall have a surrender value which is less than the total amount paid to the company therefor.

Subd. 6. Upon the maturity of a note, the borrower may, at his option, surrender the certificate of indebtedness pledged to secure the same, in which event the amounts, if any, paid on the certificate of indebtedness, less such handling charges as are authorized by this chapter, shall be applied to reduce the balance owing on the note.

Subd. 7. (a) The interest on loans made by an industrial loan and thrift company pursuant to subdivision 3 may be at a rate not in excess of nine percent discount per annum for loans which provide for a repayment period not exceeding 36 months; 8-3/8 percent discount per annum for loans which provide for a repayment period exceeding 36 months but not exceeding 48 months; and 7-3/4 percent discount per annum for loans which provide for a repayment period exceeding 48 months but not exceeding 60 months.

(b) This subdivision supersedes the provisions of subdivision 3 regarding the lawful rate of interest for loans made by industrial loan and thrift companies, but not any other provision of subdivision 3, from April 12, 1980 until June 30, 1982. A loan made by an industrial loan and thrift company that provides for a rate of interest authorized by this subdivision continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

History: 1933 c 246 s 4; 1945 c 439 s 1; 1953 c 133 s 1; 1963 c 596 s 1; 1971 c 906 s 1; 1975 c 373 s 1; 1976 c 235 s 2; 1980 c 551 s 3 (7774-28)

53.05 POWERS, LIMITATION.

No industrial loan and thrift company shall have power to do any of the following:

(1) To carry commercial or demand banking accounts; to use the word "bank" or "banking" in its corporate name; to receive savings accounts or deposits or operate as a savings bank;

(2) To have outstanding at any one time certificates of indebtedness, exclusive of those held by the company, as security for loans made by it of more than seven times the sum of the contributed capital and appropriated reserves of the company;

(3) To lend money in excess of ten percent of its contributed capital and appropriated reserves to any person primarily liable; provided, however, if a loan has been made to any one person primarily liable and payments have been

made on the certificate of indebtedness securing it, the amount of such payments may be added to the limitation stated in this clause for the purpose of determining whether additional loans may be made to that person;

(4) To accept trusts or act as guardian, administrator, or judicial trustee in any form; or

(5) To deposit any of its funds in any banking corporation, unless that corporation has been designated by vote of a majority of directors or of the executive committee present at a meeting duly called, at which a quorum was in attendance.

(6) To change any allocation of capital made pursuant to section 53.03 or to reduce or withdraw in any way any portion of the contributed capital and appropriated reserves without prior written approval of the commissioner of banks.

(7) To take any instrument in which blanks are left to be filled in after execution.

History: 1933 c 246 s 5; 1947 c 20 s 3; 1971 c 442 s 4; 1975 c 373 s 2; 1976 c 235 s 3 (7774-29)

53.051 INSURANCE IN CONNECTION WITH LOANS.

Any policy or certificate of insurance procured by a licensee in connection with any loan or transaction subject to this chapter, for which the premium has been paid by the obligor or obligors out of the proceeds of the loan or transaction, shall contain the amount and description of the coverage, all of the terms and conditions, the period of time for which it is written, the premium therefor, and shall be delivered to the obligor or obligors within a reasonable time. Any policy or certificate providing credit life insurance or credit accident and health benefits shall be written in a manner consistent with chapter 62B and rules promulgated thereunder.

A policy or certificate for credit accident and health insurance shall disclose whether or not the benefits shall commence as of the first day of disability and shall further disclose the number of days that an insured obligor must be disabled, as defined in the policy, before benefits, whether retroactive or nonretroactive, shall commence.

In case there are multiple obligors under a transaction subject to this chapter, no policy or certificate of insurance providing credit accident and health benefits shall be procured by or through a licensee upon more than one of such obligors. In case there are multiple obligors under a transaction subject to this chapter no policy or certificate of insurance providing credit life insurance shall be procured by or through a licensee upon more than two of the obligors in which case they shall be insured jointly.

No licensee shall decline to accept a policy of insurance furnished by the borrower from another source.

History: 1963 c 596 s 2; 1971 c 906 s 2; 1977 c 382 s 1

53.06 DIRECTORS, RESIDENCE.

At least three-fourths of the directors of any industrial loan and thrift company shall be residents of the county in which the industrial loan and thrift company maintains its principal place of business, an adjacent county or any county in which the industrial loan and thrift company maintains a place of business pursuant to this chapter. Each director shall own and hold shares of common stock of the industrial loan and thrift company, unencumbered, with a par value of not less than \$500.

History: 1933 c 246 s 6; 1943 c 67 s 3; 1947 c 20 s 4; 1971 c 442 s 6; 1980 c 503 s 1 (7774-30)

53.07 RESERVE.

All industrial loan and thrift companies shall establish as a reserve against the certificates of indebtedness described in section 53.04, subdivision 5, of not less than ten percent of the amount of indebtedness thus created. Three percent of this indebtedness shall be in cash in the actual possession of the industrial loan company or on demand deposit in approved banks of this state, and seven percent of the total indebtedness may be in bonds admissible for investment by mutual savings banks under the laws of this state; provided, that such certificates of indebtedness as are issued under authority of section 53.04, subdivision 3, and are held by the industrial loan and thrift company as security for its own loans, shall not be considered as an indebtedness for which a reserve must be maintained under this section.

History: 1933 c 246 s 7; 1976 c 235 s 4 (7774-31)

53.08 DIVIDENDS.

When an industrial loan and thrift company is organized under this chapter or operating thereunder, the board of directors may declare a dividend of so much of the net profits of the corporation, after providing for all expenses, reserves, interest, and taxes accrued or due from the corporation, as they shall judge expedient, but before any dividend is declared, not less than one-tenth of the net profits of the industrial loan and thrift company of the preceding half year, or for such period as is covered by the dividend, shall be carried to an invested income fund or appropriated reserves until the aggregate of invested income and appropriated reserves shall amount to 20 percent of its capital represented by shares of common stock.

History: 1933 c 246 s 8; 1947 c 20 s 5; 1971 c 442 s 5 (7774-32)

53.09 EXAMINATIONS.

Subdivision 1. **Frequency and expense.** The commissioner shall make examinations, at least once each year, of each authorized place of business of every industrial loan and thrift company organized or operating under this chapter, at which time he shall satisfy himself that the corporation is in a solvent condition and is complying with the requirements of this chapter and operating according to sound business principles. In order to enforce his actions in this connection, the commissioner is hereby vested with the same authority as in his examination and regulation of state banks. The corporation so examined shall pay to the commissioner such fees as may be required under section 46.131. The commissioner may maintain an action for the recovery of such costs in any court of competent jurisdiction.

Subd. 2. **Report to commissioner.** (1) Each industrial loan and thrift company shall annually on or before the first day of February file a report with the commissioner stating in detail, under appropriate heads, its assets and liabilities at the close of business on the last day of the preceding calendar year. This report shall be made under oath in the form prescribed by the commissioner and published once, at the expense of the industrial loan and thrift company, in a newspaper of the county of its location, and proof thereof filed immediately with the commissioner of banks.

(2) Within 30 days following a change in controlling ownership of the capital stock of an industrial loan and thrift company, it shall file a written report with the commissioner stating in detail the nature of such change in ownership.

Subd. 3. **Penalties.** The penalties for violation of this chapter, or for any wrongdoing in connection therewith, shall be the same as those applied to state banks under the laws of this state.

History: 1933 c 246 s 9; 1943 c 67 s 4; 1947 c 20 s 6; 1965 c 475 s 2; 1980 c 503 s 2 (7774-33)

53.10 MANDATORY INSURANCE OR GUARANTEE OF CERTIFICATES HELD FOR INVESTMENT.

Subdivision 1. Not later than July 1, 1983, every industrial loan and thrift company operating under this chapter with consent or holding a certificate of authorization, which includes the right to sell and issue for investment certificates of indebtedness, other than those to be pledged as security for a loan made contemporaneously therewith, shall obtain a commitment for insurance or guarantee of the certificates by or through an insurance company or guarantee fund acceptable to the commissioner of banks. The insurance or guarantee shall provide for the redemption of the investment of certificate holders in the event of liquidation, insolvency or bankruptcy of the industrial loan and thrift company. The amount of insurance or guarantee benefit to each certificate holder, as an individual or multi-party account, shall at all times be in full force and equal to the lesser of the industrial loan and thrift company's liability under a certificate or \$40,000. For purposes of this section an insurance company or guarantee fund includes an insurance company authorized to do business in this state, an insurance or guarantee fund organized under the laws of the United States, this state or any other state with the expressed purpose or authority to guarantee the accounts of industrial loan and thrift companies or any other person who contracts with industrial loan and thrift companies to guarantee accounts.

Subd. 2. The commissioner of banks shall grant additional time or times to obtain the commitment for insurance or guarantee upon satisfactory evidence that the industrial loan and thrift company has made or is making a substantial effort to achieve the conditions precedent to issuance of the commitment. Additional time or times shall not extend later than July 1, 1985.

Subd. 3. No industrial loan and thrift company shall hereafter be granted consent, or issued a certificate of authorization which includes the right to issue for investment certificates of indebtedness, other than those to be pledged as security for a loan made contemporaneously therewith, unless the industrial loan and thrift company has obtained a commitment for insurance or guarantee of such certificates which meets the conditions of subdivision 1.

History: 1980 c 503 s 3