

CHAPTER 53

INDUSTRIAL LOAN AND THRIFT COMPANIES

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53.04 SPECIAL POWERS.

[For text of subs 1 to 5a, see M.S.1996]

Subd. 5b. Negotiable order of withdrawal accounts. Notwithstanding section 53.05, clause (1), and consistent with United States Code, title 12, section 1832, issue negotiable order of withdrawal accounts, which may not be referred to as checking accounts and may include the following transactions:

- (1) automatic (preauthorized) transfers for the purpose of paying loans at the same institution;
- (2) transfers or withdrawals made by mail, messenger, automated teller machine, or in person as withdrawals or transfers to another account of the depositor at the same institution;
- (3) withdrawals initiated by telephone and consummated by an official check mailed to the depository;
- (4) automated clearinghouse debits;
- (5) transfers from a customer's account under a preauthorized agreement to cover overdrafts on another transaction account;
- (6) drafts payable to third parties; and
- (7) debit card transactions.

Agreements establishing negotiable order of withdrawal accounts must include a prominent disclosure of the following:

"We reserve the right to at any time require not less than seven days' notice in writing before each withdrawal from this account."

A negotiable order of withdrawal account may be with or without interest and is considered a transaction account for purposes of section 48.512.

Before exercising this power, the company must submit a plan to the commissioner detailing implementation of the power.

History: 1997 c 157 s 44

53.05 POWERS, LIMITATION.

No industrial loan and thrift company may do any of the following:

- (1) carry demand banking accounts; use the word "savings" unless the institution's investment certificates, savings accounts, and savings deposits are insured by the Federal Deposit Insurance Corporation and then only if the word is not followed by the words "and loan" in its corporate name; use the word "bank" or "banking" in its corporate name; operate as a savings bank;
- (2) have outstanding at any one time certificates of indebtedness, savings accounts, and savings deposits 30 times the sum of capital stock and surplus of the company;
- (3) accept trusts, except as provided in section 47.75, subdivision 1, or act as guardian, administrator, or judicial trustee in any form;
- (4) 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;
- (5) change any allocation of capital made pursuant to section 53.03 or reduce or withdraw in any way any portion of the capital stock and surplus without prior written approval of the commissioner of commerce;

(6) take any instrument in which blanks are left to be filled in after execution;

(7) lend money in excess of 20 percent of the total of its capital stock and surplus at all its authorized locations to a person primarily liable. Companies not issuing investment certificates of indebtedness under section 53.04 need not comply with the requirement if the amount of money lent does not exceed \$100,000 of principal as defined by section 47.59, subdivision 1, paragraph (p).

However, industrial loan and thrift companies with deposit liabilities must comply with the provisions of section 48.24; or

(8) issue cashier's checks pursuant to section 48.151, unless and at all times the aggregate liability to all creditors on these instruments is protected by a special fund in cash or due from banks to be used solely for payment of the cashier's checks.

History: 1997 c 157 s 45

53.07 RESERVE.

Subdivision 1. Liquidity requirement. An industrial loan and thrift company shall maintain reserves in the form of liquid assets at a level reasonably necessary to meet anticipated withdrawals, commitments, and loan demand. Reserves shall be in cash, cash items in process of collection, short term obligations of or demand balances with other insured financial institutions in the United States and its territories, or short term, direct obligations of or guaranteed by the United States government. Obligations must mature within one year to be considered short term. The commissioner may prescribe the required amount of reserves in relation to liabilities for an individual industrial loan and thrift company from time to time based upon examination findings or other reports relating to the industrial loan and thrift company that are available to the commissioner. Reserves for an individual industrial loan and thrift company as prescribed by the commissioner pursuant to this section shall be enforced in accordance with sections 46.24 and 46.30 to 46.33.

[For text of subd 2, see M.S.1996]

History: 1997 c 187 art 3 s 12

53.09 EXAMINATIONS, THRIFT COMPANIES, COMPLIANCE ONLY.

[For text of subds 1 and 2, see M.S.1996]

Subd. 2a. Compliance examinations. For the purpose of discovering violations of this chapter or securing information lawfully required by the commissioner under this chapter, the commissioner may, at any time, either personally or by a person or persons duly designated, investigate the loans and business, and examine the books, accounts, records, and files used in the business, of every licensee and of every person engaged in the business whether or not the person acts or claims to act as principal or agent, or under the authority of this chapter. For the purposes of this subdivision, the commissioner and duly designated representatives have free access to the offices and places of business, books, accounts, papers, records, files, safes, and vaults of all these persons. The commissioner and all persons duly designated may require the attendance of and examine, under oath, all persons whose testimony the commissioner may require relative to the loans or business or to the subject matter of an examination, investigation, or hearing. Upon written agreement with the company, the commissioner may conduct examinations applying the procedures for purposes of subdivision 1, and section 46.04, subdivision 1, to facilitate the qualifications of the company to participate in the United States Small Business Administration loan guarantee or similar programs.

Each licensee shall pay to the commissioner the amount required under section 46.131, and the commissioner may maintain an action for the recovery of the costs in a court of competent jurisdiction.

[For text of subds 3 and 4, see M.S.1996]

History: 1997 c 157 s 46