

## CHAPTER 53

### INDUSTRIAL LOAN AND THRIFT COMPANIES

53.01	ORGANIZATION.	53.051	INACTIVE.
53.015	DEFINITIONS.	53.06	DIRECTORS, RESIDENCE.
53.02	CAPITAL.	53.07	RESERVE.
53.03	CERTIFICATE.	53.08	DIVIDENDS.
53.04	SPECIAL POWERS.	53.09	OVERSIGHT AND ADMINISTRATION.
53.05	POWERS, LIMITATION.	53.10	MANDATORY INSURANCE OF ACCOUNTS.

#### 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 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 articles of incorporation, and upon paying the fees prescribed by chapter 302A 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. If an industrial loan and thrift company is owned or controlled by a company, as defined in United States Code, title 12, section 1467a(a)(1)(C), the industrial loan and thrift company is not authorized, or eligible to apply for authorization, to accept deposits under this chapter, unless the company that owns or controls the industrial loan and thrift company would qualify to own a federal savings association under United States Code, title 12, section 1467a(c)(9).

**History:** (7774-25) 1933 c 246 s 1; 1943 c 67 s 1; 1976 c 181 s 2; 1980 c 541 s 2; 1981 c 270 s 126; 1982 c 547 s 1; 1983 c 250 s 19; 1984 c 576 s 19; 1996 c 414 art 1 s 22; 2004 c 253 s 1

#### 53.015 DEFINITIONS.

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

Subd. 2. **Surplus.** "Surplus" means the sum total of all funds: (1) received as consideration in excess of the par value of preferred or common stock; and (2) transferred from undivided profits as dedicated funds, by action of the board of directors.

Subd. 3. **Undivided profits.** "Undivided profits" 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. **Capital stock.** "Capital stock" means the par value of preferred or common stock multiplied by the respective number of shares of each type of stock. For purposes of section 53.05,

clause (7), capital stock may include an amount of mandatory convertible debentures approved by the commissioner. The terms and conditions for redemption of the qualifying debentures must include the prior written approval of the commissioner as a condition for a redemption, but in no event an amount in excess of 50 percent of total preferred or common stock.

Subd. 5. [Repealed by amendment, 1989 c 166 s 17]

Subd. 6. [Repealed by amendment, 1989 c 166 s 17]

**History:** *1971 c 442 s 1; 1989 c 166 s 17; 1995 c 202 art 2 s 21*

### 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 surplus 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 surplus 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 surplus of at least ten percent of the capital of the corporation represented by shares of common stock.

**History:** *(7774-26) 1933 c 246 s 2; 1943 c 67 s 2; 1947 c 20 s 1; 1971 c 442 s 2; 1989 c 166 s 18*

### 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, file a written application with the Department of Commerce for a certificate of authorization. A corporation that will not sell or issue thrift certificates for investment as permitted by this chapter need not comply with subdivision 2b. The application must be in the form prescribed by the Department of Commerce. The application must be made in the name of the corporation, executed and acknowledged by an officer designated by the board of directors of the corporation, 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 \$1,500 filing fee if the corporation will not sell or issue thrift certificates for investment, and a filing fee of \$8,000 if the corporation will sell or issue thrift certificates for investment. The fees must be turned over by the commissioner

to the commissioner of management and budget and credited to the general fund. The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. An application for powers under subdivision 2b must also require that a notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the Department of Commerce, at the expense of the applicant, in a qualified newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be none, in a qualified newspaper likely to give notice in the municipality 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 15 days of the notice having been fully published, the commissioner shall proceed in the same manner as required under section 46.041, subdivisions 3 and 4, relating to state banks.

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 the company reasonably anticipates public demand for the loans it proposes to make in the location specified in the application, 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 articles of incorporation or an amendment to them, the proposed name of the industrial loan and thrift company shall be submitted to the commissioner. If it is likely 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. 2b. **Additional duties; thrift certificates for investment.** If an application includes the right to issue thrift certificates for investment, the Department of Commerce must, in addition to the duties in subdivision 2, make a determination that there is a reasonable public demand for that company and that the probable volume of business in that location is sufficient to insure the solvency of any then existing industrial loan and thrift companies or banks in that locality, without endangering the safety of the company or bank in the locality as a place for investing or depositing public and private money.

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

Subd. 3a. **Actions on applications.** If the application be granted without hearing the Department of Commerce shall, not later than 60 days after the application has been accepted, 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 application has been accepted, 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 commissioner approves the application after a hearing the commissioner 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 commissioner shall, not later than 30 days after a hearing, notify the corporation of the denial.

Subd. 4. [Repealed, 1Sp1985 c 1 s 25]

Subd. 5. **Place of business.** Not more than one place of business may 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. To the extent that previously filed applicable information remains unchanged, the applicant need not refile this information, unless requested. The filing fee for a branch application shall be \$500 and the investigation fee \$250. An industrial loan and thrift corporation with deposit liabilities may change one or more of its locations upon the written approval of the commissioner of commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office. An industrial loan and thrift corporation that does not sell and issue thrift certificates for investment may change one or more locations by giving 30 days' written notice to the Department of Commerce which shall promptly amend the certificate of authorization accordingly. No change in place of business of a company to a location outside of its current trade area or more than 25 miles from its present location, whichever distance is greater, shall be permitted under the same certificate unless all of the applicable requirements of this section have been met.

Subd. 6. **Amended certificates, thrift certificates for investment, application, fee, notice.** Upon approval by the commissioner of commerce of a commitment for insurance or guarantee of certificates to be held for investment as required in section 53.10, subdivision 3, an industrial loan and thrift company may apply to the Department of Commerce for an amended certificate of authorization and consent to sell and issue thrift certificates for investment.

The application, in triplicate, must be in the form prescribed by the Department of Commerce and filed in its office. At the time of filing the application, the applicant shall pay a filing fee of \$8,000 and if an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the Department of Commerce in approving or disapproving the application, payable to the commissioner of management and budget and credited by the commissioner of management and budget to the general fund, must be paid by the applicant and 50 percent equally by the intervening parties. A notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the Department of Commerce, at the expense of the applicant, in a newspaper published in the municipality in which the place of business under the application is located, or if there is none, in a newspaper published at the county seat of the county in which the place of business is located. Not more than one place of business maintained under a certificate of authorization may be the subject of an application.

Subd. 7. **Objection to application.** Upon receiving written objection to the application from any person within 15 days of the notice having been fully published, the Department of Commerce shall order a contested case hearing to be conducted on the application.

Subd. 8. **Investigation.** Upon receiving an application, the Department of Commerce shall make or cause to be made, an investigation of the application to determine that the corporation is in a solvent condition, meets current thrift industry standards of management quality and asset condition, is in compliance with the requirements of this chapter. If upon completion of its investigation and any hearing provided for in subdivision 7, it appears to the Department of Commerce that the requirements for approval contained in this subdivision have been met, the application shall be approved. In all other cases, the application shall be denied. As a condition of approval, the capital funds of the applicant corporation shall not be less than the total amount which the Department of Commerce considers necessary having in mind the potential for the issuance of certificates for investment by the applicant. The procedure in subdivision 3a shall be followed in decisions, notice, and hearing of applications for consent to sell and issue thrift certificates for investment by issuance of an amended certificate of authorization.

**History:** (7774-27) 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; 1981 c 132 s 1-4; 1983 c 250 s 20-22; 1983 c 252 s 4; 1983 c 289 s 114; 1984 c 576 s 20-22; 1984 c 655 art 1 s 12; 1Sp1985 c 1 s 4-11; 1989 c 166 s 19,20; 1992 c 587 art 1 s 20; 1993 c 257 s 33; 1996 c 414 art 1 s 23; 1999 c 151 s 28-30; 2003 c 112 art 2 s 50; 2009 c 101 art 2 s 109

### 53.04 SPECIAL POWERS.

Subdivision 1. **Authorization.** 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 5.

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

Subd. 3. [Repealed, 1981 c 258 s 23]

Subd. 3a. **Loans.** (a) The right to make loans, secured or unsecured, at the rates and on the terms and other conditions permitted under chapters 47 and 334. Loans made under this authority must be in amounts in compliance with section 53.05, clause (7). A licensee making a loan under this chapter secured by a lien on real estate shall comply with the requirements of section 47.20, subdivision 8.

(b) Loans made under this subdivision may be secured by real or personal property, or both. If the proceeds of a loan secured by a first lien on the borrower's primary residence are used to finance the purchase of the borrower's primary residence, the loan must comply with the provisions of section 47.20.

(c) An agency or instrumentality of the United States government or a corporation otherwise created by an act of the United States Congress or a lender approved or certified by the secretary of housing and urban development, or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association, that engages in the business of purchasing or taking assignments of mortgage loans and undertakes direct collection of payments from or enforcement of rights against borrowers arising from mortgage loans, is not required to obtain a certificate of authorization under this chapter in order to purchase or take assignments of mortgage loans from persons holding a certificate of authorization under this chapter.

(d) This subdivision does not authorize an industrial loan and thrift company to make loans under an overdraft checking plan.

Subd. 3b. [Repealed, 1996 c 414 art 2 s 15]

Subd. 3c. [Repealed, 1996 c 414 art 2 s 15]

Subd. 4. [Repealed, 1981 c 258 s 23]

Subd. 4a. [Repealed, 1996 c 414 art 2 s 15]

Subd. 5. **Sell and issue certificates of indebtedness.** The right, with the consent of the Department of Commerce, to (1) sell and issue for investment certificates of indebtedness, under any descriptive name, which may bear interest, if any, as their terms provide, and which may require the payment to the company of amounts, from time to time as their terms provide, and

permit the withdrawal of amounts paid on them, in whole or in part, from time to time, and the credit of amounts thereon upon conditions set forth therein; and (2) receive savings accounts or savings deposits.

Subd. 5a. **Credit sales and service contracts.** A person may enter into a credit sale or service contract for sale to an industrial loan and thrift company operating under this chapter in this state, and an industrial loan and thrift company may purchase and enforce the contract under the terms and conditions set forth in section 47.59, subdivisions 2 and 4 to 14.

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.

Subd. 6. [Repealed, 1981 c 258 s 23]

Subd. 7. [Repealed, 1981 c 258 s 23]

**History:** (7774-28) 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; 1981 c 258 s 20; 1982 c 473 s 20; 1982 c 547 s 2,3; 1983 c 250 s 23; 1983 c 252 s 5,6; 1984 c 473 s 2-4; 1984 c 576 s 5; 1984 c 655 art 1 s 13; art 2 s 3 subd 1; 1Sp1985 c 1 s 12; 1Sp1985 c 13 s 188; 1987 c 349 art 1 s 31,32; 1989 c 341 art 2 s 2; 1993 c 257 s 34; 1995 c 202 art 1 s 15; art 3 s 11-14; 1996 c 414 art 2 s 8; 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:** (7774-29) 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; 1983 c 250 s 24; 1983 c 252 s 7; 1983 c 289 s 114 subd 1; 1984 c 473 s 5; 1984 c 655 art 1 s 92; 1Sp1985 c 1 s 13; 1987 c 349 art 1 s 33; 1989 c 166 s 21; 1997 c 157 s 45

**53.051** [Repealed, 1981 c 258 s 23]

### **53.06 DIRECTORS, RESIDENCE.**

At least three-fourths of the directors of any industrial loan and thrift company holding a certificate that includes the right to issue thrift certificates for investment must be residents of Minnesota.

**History:** (7774-30) 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; 1983 c 250 s 25; 1989 c 166 s 22; 1989 c 341 art 2 s 3

### **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.

Subd. 2. **Temporary reserve minimum.** Until an industrial loan and thrift company obtains a commitment for insurance or guarantee of accounts acceptable to the commissioner as required by section 53.10, it shall establish a minimum reserve against the certificates of indebtedness, savings accounts, and savings deposits 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 savings banks under the laws of this state.

**History:** (7774-31) 1933 c 246 s 7; 1976 c 235 s 4; 1982 c 473 s 21; 1983 c 252 s 8; 1987 c 384 art 2 s 1; 1996 c 414 art 1 s 24; 1997 c 187 art 3 s 12

### **53.08 DIVIDENDS.**

Subdivision 1. **General conditions for 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 surplus until the aggregate of undivided profits and surplus shall amount to 20 percent of its capital represented by shares of common stock.

Subd. 2. **Special conditions for deposit companies.** In addition to the conditions in subdivision 1, industrial loan and thrift companies having outstanding time certificates of indebtedness, savings accounts, or savings deposits must comply with the following special conditions:

(1) the dividend period for the purpose of declaring dividends shall be the period beginning on January 1 and ending as of the close of business December 31 of each calendar year and the net income for this period shall be determined from the consolidated report of income of each company;

(2) the Department of Commerce will supply each company with forms to be completed with information called for. The forms must be mailed or delivered to the commissioner within ten days of the date of declaration of any dividend and at least 15 days before the proposed payment date of any dividend. The forms shall contain a statement by the commissioner providing that if certain requirements as set forth in the statement are met, the company may pay a cash dividend or dividends without specific approval of the commissioner in the year after the dividend period in amounts so as not to reduce the company's capital, surplus, undivided profits, and reserves below these requirements;

(3) declared dividends shall be deducted from undivided profits and carried on the books as another liability entitled "dividends payable." The other liability account shall be reversed upon payment or nonapproval by the commissioner; and

(4) except as provided in clause (2), no company shall pay a cash dividend to its stockholders until written approval for the dividend has been obtained from the commissioner.

**History:** (7774-32) 1933 c 246 s 8; 1947 c 20 s 5; 1971 c 442 s 5; 1989 c 166 s 23

**53.09 OVERSIGHT AND ADMINISTRATION.**

Subdivision 1. **General examinations.** The commissioner shall make examinations for the purposes set forth in section 46.04, subdivision 1, at least once every 18 calendar months, of each authorized place of business of every industrial loan and thrift company with the right to issue thrift certificates for investment organized or operating under this chapter to satisfy the commissioner 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 actions in this connection, the commissioner is hereby vested with the same authority as in the 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. **Annual report.** (1) Each industrial loan and thrift company shall annually on or before the first day of March 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 and, if applicable, information required under section 47.601, subdivision 5. This report shall be made under oath in the form prescribed by the commissioner.

(2) Each industrial loan and thrift company which holds authority to accept accounts pursuant to section 53.04, subdivision 5, shall in place of the requirement in clause (1) submit the reports required of state banks pursuant to section 48.48.

(3) 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. 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.

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. In addition to being subject to the penalties in section 48.28, a company in violation of section 53.05, clause (2), may cure this violation in the manner provided in section 48.28.

Subd. 4. **Interpretive opinions.** The commissioner may honor requests from interested parties for interpretive opinions in connection with the administration of this chapter. No provision of this chapter or of any other chapter to which this chapter refers which imposes any penalty shall apply to any act done or not done in conformity with any written interpretive opinion of the commissioner, notwithstanding that such written interpretive opinion may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

**History:** (7774-33) 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; 1983 c 289 s 114 subd 1; 1984 c 576 s 23; 1984 c 655 art 1 s 92; 1986 c 444; 1987 c 349 art 1 s 34; 1989 c 166 s 24; 1992 c 587 art 1 s 21; 1993 c 257 s 35; 1995 c 202 art 1 s 16-18; 1996 c 414 art 1 s 25; 1997 c 157 s 46; 2009 c 68 s 4

### 53.10 MANDATORY INSURANCE OF ACCOUNTS.

Subdivision 1. **Requirement for existing companies.** Not later than July 1, 1987, 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, savings accounts, and savings deposits, shall obtain a commitment for insurance or guarantee of the certificates, accounts, or deposits by the Federal Deposit Insurance Corporation, an agency of this state, or a federal agency established for the purpose of insuring deposits in banks or otherwise eligible to insure the savings accounts and savings deposits in industrial loan and thrift companies operating pursuant to this chapter.

Subd. 2. **Extension to obtain commitment.** The commissioner of commerce 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, 1988.

Subd. 3. **Requirement for new companies.** 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, savings accounts, and savings deposits 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.

Subd. 4. **Transitional requirement; continuing requirement.** Until the time the requirements of subdivisions 1 and 2 are fully satisfied, any existing insurance or guarantee approved by the commissioner of commerce pursuant to Laws 1980, chapter 503, section 3, must be maintained as a condition to continued operations. Thereafter every industrial loan and thrift company shall at all times maintain in effect insurance of its accounts by the Federal Deposit Insurance Corporation, an agency of this state or a federal agency established for the purpose of insuring deposits in banks or otherwise eligible to insure the accounts of industrial loan and thrift companies operating pursuant to this chapter. If it appears to the commissioner that an industrial loan and thrift company has failed to meet the requirements of this section, the commissioner shall issue an order pursuant to sections 46.24 to 46.33 requiring compliance or the noncompliant industrial loan and thrift company to cease and desist from accepting savings or deposit accounts and submit a plan to the commissioner for the orderly and timely divestiture of all existing savings and deposit accounts.

**History:** 1980 c 503 s 3; 1981 c 132 s 5; 1983 c 252 s 9; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1Sp1985 c 13 s 189