

CHAPTER 53

BANKING DIVISION; INDUSTRIAL LOAN AND THRIFT COMPANIES

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53.01 ORGANIZATION. It shall be lawful for three or more persons, who may 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 hereinafter set forth, to organize, under this chapter, an industrial loan and thrift company, by filing with the secretary of state and the register of deeds of the county in which the business is to be carried on, a certificate of incorporation, and, upon paying the fees and upon compliance with the procedure provided for the organization and government of ordinary corporations under the laws of this state, and complying with the additional requirements prior to authorization to doing business, as set forth in this chapter.

[1933 c. 246 s. 1] (7774-25)

Am 1943-67-2

53.02 CAPITAL AND SURPLUS. No corporation shall be organized under this chapter, or qualified to do business hereunder, with a capital 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 stock shall have a par value of not less than \$25.00 per share. No corporation shall begin doing business under this chapter, and no existing corporation shall be permitted to qualify under this chapter, in this state, unless its capital is fully paid, and unless a surplus of no less than ten per cent of the capital shall have also been fully paid and set up. After the capital of a corporation organized or doing business under this chapter shall have been fully paid, and a surplus of not less than ten per cent also fully paid and set up, additional capital stock in the corporation may be sold at not less than par; provided, that there is always maintained a surplus of at least ten per cent of the capital of the corporation.

[1933 c. 246 s. 2] (7774-26)

Am 1943-67-3

53.03 CERTIFICATE. Any corporation organized under the law of this state 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 to be in such form as is now or may hereafter be required from state banks making applications for charters in this state and, at the time of filing the application, also submit a copy of the by-laws of the corporation, its articles of incorporation, and all amendments thereto.

The department of commerce shall thereupon make, or cause to be made, an examination to ascertain whether the assets of the corporation, over and above all its liabilities, have an actual value of not less than the par value of all of its capital stock, which shall not be less than the amount prescribed by section 53.02; and, if these facts appear and the by-laws and the articles of incorporation and amendments thereto are in accordance with law, the department of commerce shall issue a certificate of authorization, authorizing the corporation to transact business as an industrial loan and thrift company, as provided in this chapter.

This authorization shall then be filed in the same places as specified for the filing of the certificate of incorporation in section 53.01. The corporation shall thereupon become an industrial loan and thrift company.

[1933 c. 246 s. 3] (7774-27)

53.04 SPECIAL POWERS. 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 following special powers, which powers must be set forth in their articles of incorporation or amendments thereto:

(1) The right to discount or purchase notes, bills of exchange, acceptances or other choses in action;

(2) 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 one year; to deduct in advance one year's interest on such loans at the rate of not in excess of eight per cent discount per annum; 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 instalments, 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 \$50.00 made pursuant to this subdivision, \$1.00 for each \$50.00, 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, or other expenses incurred in making the loan; provided, that no fee collected hereunder shall exceed \$10.00; and, provided, that for a loan exceeding \$500.00, one per cent additional of the amount loaned in excess of \$500.00 may be charged for these expenses, not exceeding a total fee of \$15.00; if any such loan made pursuant to this clause is \$50.00 or less, the charge shall not be more than \$1.00; and no such charge shall be collected unless a loan shall have been made;

(3) To impose a handling charge of five cents for each default in the payment of \$1.00, or fraction thereof, at the time any periodical instalment on a certificate of indebtedness assigned as collateral security for the payment of a loan made pursuant to the foregoing provisions becomes due; provided, that this handling charge shall not be cumulative; that the aggregate of the handling charges collected in connection with any such loan of \$50.00, or less, shall not exceed 50 cents, and that the aggregate of handling charges collected in connection with any such loan of more than \$50.00 shall not exceed one per cent of the loan and shall in no event exceed \$5.00;

(4) 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; and

(5) 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.

[1933 c. 246 s. 4] (7774-28)

53.05 LIMITATION OF POWERS. No industrial loan and thrift company shall have power to do any of the following:

(1) To carry commercial or demand banking account; 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 capital, surplus, and undivided profits of the company;

(3) To lend money in excess of five per cent of its paid-in capital, surplus, and undivided profits to any one person or corporation primarily liable; provided, that if marketable collateral be taken as security for a loan, then an industrial loan and thrift company may loan not to exceed ten per cent of its capital, surplus, and undivided profits to any one person or corporation primarily liable;

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

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(5) To deposit any of its funds in any banking corporation, unless the 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.

[1933 c. 246 s. 5] (7774-29)

53.06 DIRECTORS, RESIDENCE. At least three-fourths of the directors of any industrial loan and thrift company shall be residents of the principal city in which an industrial loan and thrift company shall be organized, and every director shall own and hold not less than 20 shares of capital stock of the industrial loan and thrift company, unencumbered.

[1933 c. 246 s. 6] (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, clause (4), of not less than ten per cent of the amount of indebtedness thus created. Three per cent 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 per cent 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, clause (2), 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.

[1933 c. 246 s. 7] (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 company of the preceding half year, or for such period as is covered by the dividend, shall be carried to a surplus fund until the surplus shall amount to 20 per cent of its capital stock.

[1933 c. 246 s. 8] (7774-32)

53.09 EXAMINATION. The commissioner shall make examinations, at least once each year, of each industrial loan and thrift company organized or operating under this chapter, at which time he will 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 cost of the examination shall be borne by the corporation and the fees to be charged and paid by the corporation therefor shall be the same as is provided in section 54.27.

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.

[1933 c. 246 s. 9] (7774-33)