

## CHAPTER 53

## INDUSTRIAL LOAN AND THRIFT COMPANIES

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**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.

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 [Repealed by amendment, 1989 c 166 s 17]

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 [Repealed by amendment, 1989 c 166 s 17]

**History:** 1989 c 166 s 17

**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:** 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 a \$1,000 filing fee and a \$500 investigation fee. The fees must be turned over by the commissioner to the state

treasurer 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. If the 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 state treasurer and credited to the general fund shall 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 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 20 days of the notice having been fully published a contested case hearing must be conducted on the application. Notice of a hearing in connection with this section must 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.

*[For text of subds 2 to 3a, see M.S.1988]*

**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. If a corporation has been issued more than one certificate of authorization, the corporation shall allocate a portion of capital stock to each office for which a certificate has been issued, in order to comply with the capital requirements of sections 53.02 and 53.05, clause (2), which sections are applicable to each office and the capital allocated thereto in the same manner as if each certificate had been issued to a separate corporation. 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.

*[For text of subds 6 to 8, see M.S.1988]*

**History:** 1989 c 166 s 19,20

#### **53.04 SPECIAL POWERS.**

*[For text of subds 1 to 3b, see M.S.1988]*

**Subd. 3c.** The right to extend credit and make loans under chapter 51A on the same terms and subject to the same conditions as apply to other lenders under that chapter. This subdivision does not authorize an industrial loan and thrift company to make loans under a credit card or overdraft checking plan.

*[For text of subds 4a and 5, see M.S.1988]*

**History:** 1989 c 341 art 2 s 2

#### **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.

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:** 1989 c 166 s 21

### 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:** 1989 c 166 s 22; 1989 c 341 art 2 s 3

### 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:** 1989 c 166 s 23

### 53.09 EXAMINATIONS.

*[For text of subds 1 and 2, see M.S.1988]*

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.

**History:** 1989 c 166 s 24