

AMENDED IN ASSEMBLY MAY 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3115

Introduced by Assembly Member Gallegos

February 23, 1996

An act to amend ~~Section 22340~~ *Sections 22340 and 22600* of the Financial Code, relating to loans.

LEGISLATIVE COUNSEL'S DIGEST

AB 3115, as amended, Gallegos. Loans.

Under existing law, a finance lender or broker licensed under the California Finance Lenders Law may sell certain promissory notes to institutional investors, as defined, evidencing the obligation to repay certain types of loans. ~~A licensee may sell promissory notes for loans made by the licensee or for loans purchased from and made by another licensee under the California Finance Lenders Law.~~

~~This bill would provide that a licensee can, in addition, sell a promissory note that evidences the obligation to repay a loan purchased from and made by an institutional lender. The bill would define institutional lender, and would include a residential mortgage lender in the definition of an institutional investor.~~

Under the California Finance Lenders Law, for purposes of consumer loans, an institutional investor is defined to include a trust or other business entity established by an institutional investor for specified purposes, if certain requirements are met.

This bill would, for purposes of commercial loans regulated under the California Finance Lenders Law, define an institutional investor in the same manner.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22340 of the Financial Code is
2 amended to read:

3 22340. (a) A licensee may sell ~~to an institutional~~
4 ~~investor promissory notes evidencing the obligation to~~
5 ~~repay the following types of loans:~~

6 ~~(1) Loans made by the licensee pursuant to this~~
7 ~~division.~~

8 ~~(2) Loans purchased from and made by another~~
9 ~~licensee pursuant to this division.~~

10 ~~(3) Loans purchased from and made by an~~
11 ~~institutional lender.~~

12 ~~A licensee promissory notes evidencing the obligation~~
13 ~~to repay loans made by the licensee pursuant to this~~
14 ~~division or evidencing the obligation to repay loans~~
15 ~~purchased from and made by another licensee pursuant~~
16 ~~to this division to institutional investors, and may make~~
17 agreements with institutional investors for the collection
18 of payments or the performance of services with respect
19 to those notes.

20 (b) For the purpose of this section, “institutional
21 investor” means the following:

22 (1) The United States or any state, district, territory, or
23 commonwealth thereof, or any city, county, city and
24 county, public district, public authority, public
25 corporation, public entity, or political subdivision of a
26 state, district, territory, or commonwealth of the United
27 States, or any agency or other instrumentality of any one
28 or more of the foregoing.

29 (2) A bank, trust company, savings bank or savings and
30 loan association, credit union, industrial bank or industrial
31 loan company, finance lender, residential mortgage
32 lender, or insurance company doing business under the



1 authority of and in accordance with a license, certificate,
2 or charter issued by the United States or any state, district,
3 territory, or commonwealth of the United States.

4 (3) Trustees of pension, profit sharing, or welfare
5 funds, if the pension, profit sharing, or welfare fund has
6 a net worth of not less than fifteen million dollars
7 (\$15,000,000), except pension, profit sharing, or welfare
8 funds of a licensee or its affiliate, self-employed individual
9 retirement plans, or individual retirement accounts.

10 (4) A corporation with outstanding securities
11 registered under Section 12 of the Securities Exchange
12 Act of 1934 or any wholly owned subsidiary of that
13 corporation; provided, however, that the purchaser
14 represents that it is purchasing for its own account for
15 investment and not with a view to or for sale in
16 connection with any distribution of the promissory note.

17 (5) A syndication or other combination of any of the
18 foregoing that is organized to purchase the promissory
19 note.

20 (6) A trust or other business entity established by an
21 institutional investor for the purpose of issuing or
22 facilitating the issuance of undivided interests in, the
23 right to receive payments from, or that are payable
24 primarily from, a pool of financial assets held by the trust
25 or business entity if all of the following apply:

26 (A) The business entity is not a sole proprietorship.

27 (B) The pool of assets consists of one or more of the
28 following:

29 (i) Interest bearing obligations.

30 (ii) Other contractual obligations representing the
31 right to receive payments from the assets.

32 (iii) Surety bonds, insurance policies, letters of credit,
33 or other instruments providing credit enhancements for
34 these assets.

35 (C) The interests will be either of the following:

36 (i) Rated investment grade by Standard & Poor's
37 Corporation or Moody's Investors Service, Inc.
38 "Investment grade" means that the securities will be
39 rated by Standard & Poor's Corporation as AAA, AA, A,
40 or BBB, or by Moody's Investor Service, Inc., as Aaa, Aa,



1 A, or Baa, including a rating with a “+” or “—”
2 designation or other variations that occur within these
3 ratings.

4 (ii) Sold to an institutional investor as otherwise
5 defined in this section.

6 (D) The offer and sale of the securities is qualified
7 under the Corporate Securities Law of 1968 (Division 1
8 (commencing with Section 25000) of Title 4 of the
9 Corporations Code) or is registered under federal
10 securities laws, or is exempt from qualification or
11 registration.

12 ~~(e) For the purpose of this section, “institutional~~
13 ~~lender” means any bank, trust company, savings bank or~~
14 ~~savings and loan association, credit union, industrial loan~~
15 ~~company, residential mortgage lender, or insurance~~
16 ~~company doing business under the authority of and in~~
17 ~~accordance with a license, certificate or charter issued by~~
18 ~~the United States or any state, district, territory or~~
19 ~~commonwealth of the United States.~~

20 ~~(d)~~

21 (c) In the absence of agreement to the contrary by the
22 licensee and the institutional investor, all payments
23 received from the collection of payments shall be
24 deposited and maintained in a trust account, and shall be
25 disbursed from the trust account only in accordance with
26 the instructions of the owner of the promissory note.

27 *SEC. 2. Section 22600 of the Financial Code is*
28 *amended to read:*

29 22600. (a) A licensee may sell promissory notes
30 evidencing the obligation to repay loans made by the
31 licensee pursuant to this division or evidencing the
32 obligation to repay loans purchased from and made by
33 another licensee pursuant to this division to institutional
34 investors, and may make agreements with institutional
35 investors for the collection of payments or the
36 performance of services with respect to those notes.

37 (b) For the purposes of this section, “institutional
38 investor” means the following:

39 (1) The United States or any state, district, territory, or
40 commonwealth thereof, or any city, county, city and



1 county, public district, public authority, public
2 corporation, public entity, or political subdivision of a
3 state, district, territory, or commonwealth of the United
4 States, or any agency or other instrumentality of any one
5 or more of the foregoing.

6 (2) Any bank, trust company, savings bank or savings
7 and loan association, credit union, industrial bank or
8 industrial loan company, finance lender, or insurance
9 company doing business under the authority of and in
10 accordance with a license, certificate, or charter issued by
11 the United States or any state, district, territory, or
12 commonwealth of the United States.

13 (3) Trustees of pension, profit sharing, or welfare
14 funds, if the pension, profit sharing, or welfare fund has
15 a net worth of not less than fifteen million dollars
16 (\$15,000,000), except pension, profit sharing, or welfare
17 funds of a licensee or its affiliate, self-employed individual
18 retirements plans, or individual retirement accounts.

19 (4) Any corporation with outstanding securities
20 registered under Section 12 of the Securities Exchange
21 Act of 1934 or any wholly owned subsidiary of that
22 corporation; provided, however, that the purchaser
23 represents that it is purchasing for its own account for
24 investment and not with a view to or for sale in
25 connection with any distribution of the promissory note.

26 (5) Any syndication or other combination of any of the
27 foregoing that is organized to purchase the promissory
28 note.

29 (6) *A trust or other business entity established by an*
30 *institutional investor for the purpose of issuing or*
31 *facilitating the issuance of undivided interests in, the*
32 *right to receive payments from, or that are payable*
33 *primarily from, a pool of financial assets held by the trust*
34 *or business entity if all of the following apply:*

35 (A) *The business entity is not a sole proprietorship.*

36 (B) *The pool of assets consists of one or more of the*
37 *following:*

38 (i) *Interest bearing obligations.*

39 (ii) *Other contractual obligations representing the*
40 *right to receive payments from the assets.*



1 (iii) Surety bonds, insurance policies, letters of credit,
2 or other instruments providing credit enhancements for
3 these assets.

4 (C) The interests will be either of the following:

5 (i) Rated investment grade by Standard & Poor's
6 Corporation or Moody's Investors Service, Inc.
7 "Investment grade" means that the securities will be
8 rated by Standard & Poor's Corporation as AAA, AA, A,
9 or BBB, or by Moody's Investor Service, Inc., as Aaa, Aa,
10 A, or Baa, including a rating with a "+" or "-"
11 designation or other variations that occur within these
12 ratings.

13 (ii) Sold to an institutional investor as otherwise
14 defined in this section.

15 (D) The offer and sale of the securities is qualified
16 under the Corporate Securities Law of 1968 (Division 1
17 commencing with Section 25000) of Title 4 of the
18 Corporations Code) or is registered under federal
19 securities laws, or is exempt from qualification or
20 registration.

21 (c) In the absence of agreement to the contrary by the
22 licensee and the institutional investor, all payments
23 received from the collection of payments shall be
24 deposited and maintained in a trust account, and shall be
25 disbursed from the trust account only in accordance with
26 the instructions of the owner of the promissory note.

