

AMENDED IN SENATE JULY 9, 1996
AMENDED IN SENATE JUNE 25, 1996
AMENDED IN ASSEMBLY MAY 8, 1996
AMENDED IN ASSEMBLY APRIL 23, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 3260

Introduced by Assembly Member Richter

February 23, 1996

An act to amend Sections 1876.1, 1876.9, 33560, and 33568 of, and to repeal Sections 1876.7 and 33566 of, the Financial Code, relating to financial transactions.

LEGISLATIVE COUNSEL'S DIGEST

AB 3260, as amended, Richter. Travelers checks and payment instruments.

Existing law, for purposes of the Travelers Checks Act and the Payment Instrument Law, defines the term "United States currency eligible security," and "value."

This bill would revise and expand the definition of "United States currency ~~eligible~~"—~~security~~, *eligible security*," as specified, to include, among other things, shares in an investment company that meets specified requirements. It would also revise the definition of value. ~~The bill would, in addition, provide that certain eligible securities, even if commingled with other assets of the licensee, shall be deemed~~

~~to be held in trust for purchasers and holders of travelers checks in the event of bankruptcy of the licensee.~~

Existing law provides that the Superintendent of Banks may find that an account due to any licensee from any agent of the licensee is an eligible security, under specified circumstances.

This bill would delete that provision.

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

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

1 SECTION 1. Section 1876.1 of the Financial Code is
2 amended to read:

3 1876.1. In this article:

4 (a) "Eligible security" means any United States
5 currency eligible security or foreign currency eligible
6 security.

7 (b) "Eligible securities rating service" means any
8 securities rating service which the superintendent has by
9 regulation or order declared to be an eligible securities
10 rating service pursuant to Section 1876.5.

11 (c) "Eligible rating," when used with respect to any
12 security or class of securities and any eligible securities
13 rating service, means any rating assigned to the security,
14 or class of securities, by the eligible securities rating
15 service which the superintendent has by regulation or
16 order declared to be an eligible rating pursuant to Section
17 1876.6.

18 (d) "Foreign currency eligible security" means any of
19 the following which are, or are denominated in, a foreign
20 currency and which the superintendent has not by
21 regulation or order declared to be ineligible pursuant to
22 Section 1876.3.

23 (1) Any of the following which are of comparable
24 quality to the United States currency eligible securities
25 specified in paragraphs (1) to (7), inclusive, of
26 subdivision (g):

27 (A) Cash.

28 (B) Any deposit in an office of a bank located in a
29 foreign country.



1 (C) Any bond, note, or other obligation.

2 (2) Any other security or class of securities which the
3 superintendent has by regulation or order declared to be
4 eligible securities pursuant to Section 1876.4.

5 (e) “Insured bank” means any bank the deposits of
6 which are insured by the Federal Deposit Insurance
7 Corporation. However, “insured bank” does not include
8 any office of a foreign (other nation) bank, as defined in
9 Section 1700, other than an office which is insured by the
10 Federal Deposit Insurance Corporation.

11 (f) “Insured savings and loan association” means any
12 savings and loan association the accounts of which are
13 insured by the Federal Deposit Insurance Corporation.

14 (g) “United States currency eligible security” means
15 any of the following which are, or are denominated in,
16 United States currency and which the superintendent has
17 not by regulation or order declared to be ineligible
18 pursuant to Section 1876.3.

19 (1) Cash.

20 (2) Any deposit in an insured bank or an insured
21 savings and loan association.

22 (3) Any bond, note, or other obligation which is issued
23 or guaranteed by the United States or by any agency of
24 the United States.

25 (4) Any bond, note, or other obligation which is issued
26 or guaranteed by any state of the United States, or by any
27 governmental agency of or within any state of the United
28 States, and which is assigned an eligible rating by an
29 eligible securities rating service.

30 (5) Any bankers acceptance which is eligible for
31 discount by a federal reserve bank.

32 (6) Any commercial paper which is assigned an
33 eligible rating by an eligible securities rating service.

34 (7) Any bond, note, or other obligation or preferred
35 stock which is assigned an eligible rating by an eligible
36 securities rating service.

37 (8) Any share of an investment company that is an
38 open-end management company, that is registered
39 under the Investment Company Act of 1940 (12 U.S.C.
40 Sec. 80a-1 et seq.), that holds itself out to investors as a



1 money market fund, and that operates in accordance
2 with all provisions of the Investment Company Act of
3 1940 and of the regulations of the Securities and Exchange
4 Commission applicable to money market funds,
5 including Section 270.2a-7 of the regulations of the
6 Securities and Exchange Commission (17 C.F.R. Sec.
7 270.2a-7).

8 For purposes of this paragraph and paragraph (9),
9 “investment company,” “management company,” and
10 “open-end” have the meanings set forth in Sections 3, 4,
11 and 5, respectively, of the Investment Company Act of
12 1940 (12 U.S.C. Sec. 80a-3, 80a-4, and 80a-5, respectively).

13 (9) Any share of an investment company that is an
14 open-end management company, that is registered
15 under the Investment Company Act of 1940 (12 U.S.C.
16 Sec. 80a-1 et seq.), and that invests exclusively in
17 securities that constitute United States currency eligible
18 securities under the other provisions of this subdivision.

19 (10) Any account due to any licensee from any agent
20 of the licensee on account of the sale by the agent of
21 outstanding travelers checks issued by the licensee, if the
22 account is current and not past due or otherwise doubtful
23 of collection.

24 (11) Any other security or class of securities that the
25 superintendent has by regulation or order declared to be
26 eligible securities pursuant to Section 1876.4.

27 (h) “Value” means:

28 (1) When used with respect to an eligible security
29 owned by a licensee which consists of an account due to
30 the licensee from an agent of the licensee on account of
31 the sale by the agent of outstanding travelers checks
32 issued by the licensee, net carrying value as determined
33 in conformity with generally accepted accounting
34 principles. However, in computing the value of the
35 account due to the licensee, any amount due on account
36 of the sale of a travelers check shall be excluded if the time
37 elapsed between the sale and the date of computation
38 exceeds the average time that elapses between the time
39 of sale and the time of payment of travelers checks issued
40 by the licensee.



1 (2) When used with respect to any other eligible
2 security owned by a licensee:

3 (A) In case the practice and policy of the licensee is to
4 hold eligible securities to maturity, net carrying value as
5 determined in conformity with generally accepted
6 accounting principles.

7 (B) In any other case, market value.

8 SEC. 2. Section 1876.7 of the Financial Code is
9 repealed.

10 SEC. 3. Section 1876.9 of the Financial Code is
11 amended to read:

12 1876.9. (a) In computing for purposes of Section
13 1876.8 the aggregate value of eligible securities owned by
14 a licensee, all of the following shall be excluded:

15 (1) The value of any eligible security if and to the
16 extent that the value of such eligible security, when
17 combined with the aggregate value of all other eligible
18 securities owned by such licensee which are issued or
19 guaranteed by the same person or by any affiliate of the
20 same person by whom such eligible security is issued or
21 guaranteed, exceeds 10 percent of the aggregate value of
22 all eligible securities owned by the licensee.

23 (2) The aggregate value of all eligible securities of the
24 type described in paragraph (10) of subdivision (g) of
25 Section 1876.1 if and to the extent that that aggregate
26 value exceeds 10 percent of the aggregate value of all
27 eligible securities owned by the licensee or any higher
28 percentage, up to a maximum of 20 percent, that the
29 superintendent may approve for the licensee.

30 (b) Subdivision (a) shall not be deemed to require the
31 exclusion of the value of any of the following eligible
32 securities, and each of the following eligible securities
33 shall be exempted from the limitations of subdivision (a):

34 (1) The following United States currency eligible
35 securities:

36 (A) Cash.

37 (B) Any deposit in an insured bank or an insured
38 savings and loan association.



1 (C) Any bond, note, or other obligation for the
2 payment of which the full faith and credit of the United
3 States are pledged.

4 (2) Any eligible security which the superintendent, in
5 view of the financial condition of the obligor or issuer and
6 such other factors as may in the opinion of the
7 superintendent be relevant, finds to be of such quality
8 that exclusion of the value of such eligible security
9 pursuant to subdivision (a) is not necessary for the
10 purposes of this division and which the superintendent by
11 regulation or order exempts from the limitations of
12 subdivision (a).

13 SEC. 4. Section 33560 of the Financial Code is
14 amended to read:

15 33560. In this article:

16 (a) "Eligible security" means any United States
17 currency eligible security or foreign currency eligible
18 security.

19 (b) "Eligible securities rating service" means any
20 securities rating service which the superintendent has by
21 regulation or order declared to be an eligible securities
22 rating service pursuant to Section 33564.

23 (c) "Eligible rating," when used with respect to any
24 security or class of securities and any eligible securities
25 rating service, means any rating assigned to such security
26 or class of securities by such eligible securities rating
27 service which the superintendent has by regulation or
28 order declared to be an eligible rating pursuant to Section
29 33565.

30 (d) "Foreign currency eligible security" means any of
31 the following which is, or is denominated in, a foreign
32 currency and which the superintendent has not by
33 regulation or order declared to be ineligible pursuant to
34 Section 33562:

35 (1) Any of the following which is of comparable quality
36 to the United States currency eligible securities specified
37 in paragraphs (1) to (7), inclusive, of subdivision (f):

38 (A) Cash.

39 (B) Any deposit in an office of a bank located in a
40 foreign country.



1 (C) Any bond, note, or other obligation.

2 (2) Any other security or class of securities which the
3 superintendent has by regulation or order declared to be
4 eligible securities pursuant to Section 33563.

5 (e) “Reported outstanding payment instrument,”
6 when used with respect to a licensee, means any of the
7 following:

8 (1) Any payment instrument issued by the licensee
9 which has been sold directly by the licensee and which
10 has not yet been paid by the licensee.

11 (2) Any payment instrument issued by the licensee
12 which has been sold by an agent of the licensee, which has
13 been reported by such agent to the licensee as having
14 been sold (such report having been received by the
15 licensee), and which has not yet been paid by the
16 licensee.

17 (f) “United States currency eligible security” means
18 any of the following which is, or is denominated in, United
19 States currency and which the superintendent has not by
20 regulation or order declared to be ineligible pursuant to
21 Section 33562:

22 (1) Cash.

23 (2) Any deposit in an insured bank or an insured
24 savings and loan association.

25 (3) Any bond, note, or other obligation which is issued
26 or guaranteed by the United States or by any agency of
27 the United States.

28 (4) Any bond, note, or other obligation which is issued
29 or guaranteed by any state of the United States or by any
30 governmental agency of or within any state of the United
31 States and which is assigned an eligible rating by an
32 eligible securities rating service.

33 (5) Any bankers acceptance which is eligible for
34 discount by a federal reserve bank.

35 (6) Any commercial paper which is assigned an
36 eligible rating by an eligible securities rating service.

37 (7) Any bond, note, or other obligation or preferred
38 stock which is assigned an eligible rating by an eligible
39 securities rating service.



1 (8) Any share of an investment company that is an
 2 open-end management company, that is registered
 3 under the Investment Company Act of 1940 (12 U.S.C.
 4 Sec. 80a-1 et seq.), that holds itself out to investors as a
 5 money market fund, and that operates in accordance
 6 with all provisions of the Investment Company Act of
 7 1940 and of the regulations of the Securities and Exchange
 8 Commission applicable to money market funds,
 9 including Section 270.2a-7 of the regulations of the
 10 Securities and Exchange Commission (17 C.F.R. Sec.
 11 270.2a-7).

12 For purposes of this paragraph and paragraph (9),
 13 “investment company,” “management company,” and
 14 “open-end” have the meanings set forth in Sections 3, 4,
 15 and 5, respectively, of the Investment Company Act of
 16 1940 (12 U.S.C. Sec. 80a-3, 80a-4, 80a-5, respectively).

17 (9) Any share of an investment company that is an
 18 open-end management company, that is registered
 19 under the Investment Company Act of 1940 (12 U.S.C.
 20 Sec. 80a-1 et seq.), and that invests exclusively in
 21 securities that constitute United States currency eligible
 22 securities under the other provisions of this subdivision.

23 (10) Any account due to any licensee from any agent
 24 of such licensee on account of the sale by such agent of
 25 reported outstanding payment instruments issued by the
 26 licensee, if the account is current and not past due or
 27 otherwise doubtful of collection.

28 (11) Any other security or class of securities that the
 29 superintendent has by regulation or order declared to be
 30 eligible securities pursuant to Section 33563.

31 (g) “Value” means:

32 (1) When used with respect to an eligible security
 33 owned by a licensee which consists of an account due to
 34 such licensee from an agent of the licensee on account of
 35 the sale by such agent of reported outstanding payment
 36 instruments issued by the licensee, net carrying value as
 37 determined in conformity with generally accepted
 38 accounting principles. However, in computing the value
 39 of the account due to the licensee, any amount due on
 40 account of the sale of a payment instrument shall be



1 excluded if the time elapsed between the sale and the
2 date of computation exceeds the average time that
3 elapses between the time of sale and the time of payment
4 of payment instruments issued by the licensee.

5 (2) When used with respect to any other eligible
6 security owned by a licensee:

7 (A) In case the practice and policy of such licensee is
8 to hold eligible securities to maturity, net carrying value
9 as determined in conformity with generally accepted
10 accounting principles.

11 (B) In any other case, market value.

12 SEC. 5. Section 33566 of the Financial Code is
13 repealed.

14 SEC. 6. Section 33568 of the Financial Code is
15 amended to read:

16 33568. (a) In computing for purposes of Section
17 33567 the aggregate value of eligible securities owned by
18 a licensee, all of the following shall be excluded:

19 (1) The value of any eligible security if and to the
20 extent that the value of such eligible security, when
21 combined with the aggregate value of all other eligible
22 securities owned by such licensee which are issued or
23 guaranteed by the same person or by any affiliate of the
24 same person by whom such eligible security is issued or
25 guaranteed, exceeds 10 percent of the aggregate value of
26 all eligible securities owned by the licensee.

27 (2) The *portion of the* aggregate value of all eligible
28 securities of the type described in paragraph (1) of
29 subdivision (f) of ~~Section 33560 if and to the extent that~~
30 ~~that aggregate value~~ *Section 33560 that* exceeds 10
31 percent of the aggregate value of all eligible securities
32 owned by the licensee or any higher percentage, up to a
33 maximum of 20 percent, that the superintendent may
34 approve for the licensee.

35 (b) Subdivision (a) shall not be deemed to require the
36 exclusion of the value of any of the following eligible
37 securities, and each of the following eligible securities
38 shall be exempted from the limitations of subdivision (a):

39 (1) The following United States currency eligible
40 securities:



1 (A) Cash.

2 (B) Any deposit in an insured bank or an insured
3 savings and loan association.

4 (C) Any bond, note, or other obligation for the
5 payment of which the full faith and credit of the United
6 States are pledged.

7 (2) Any eligible security which the superintendent, in
8 view of the financial condition of the obligor or issuer and
9 such other factors as may in the opinion of the
10 superintendent be relevant, finds to be of such quality
11 that exclusion of the value of such eligible security
12 pursuant to subdivision (a) is not necessary for the
13 purposes of this division and which the superintendent by
14 regulation or order exempts from the limitations of
15 subdivision (a).

