

AMENDED IN SENATE JUNE 6, 2000

AMENDED IN SENATE MAY 10, 2000

**SENATE BILL**

**No. 2148**

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**Introduced by Senator Polanco  
(Principal coauthor: Senator Leslie)**

February 25, 2000

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An act to amend Sections 100, 102, 103, 105, 107, 109, 116, 276, ~~and 600~~ 600, ~~and 18003~~ of, to add Sections 105.3, 105.5, and 105.7 to, to add Chapter 11 (commencing with Section 1400) to Division 1 of, ~~and to repeal Section 139.5, and to repeal and add Division 7 (commencing with Section 18000)~~ 139.6 of, the Financial Code, relating to financial institutions, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 2148, as amended, Polanco. Financial institutions.

Existing law, the Banking Law, regulates all banks in the state. Existing law, the Industrial Loan Law, regulates industrial loan companies, including premium finance agencies that provide insurance premium financing.

This bill would change the name of "industrial loan company" *except in the case of premium finance agencies* to "industrial bank" and would create ~~The~~ *the* Industrial Bank Law. Industrial banks would be subject to the ~~banking law~~ *Banking Law*, as revised, which would permit industrial banks to engage in all the activities of a commercial bank, including engaging in *the* trust business. ~~This bill would enact the Insurance Premium Finance Law, under which the~~

~~Commissioner of Financial Institutions would regulate insurance premium financing. This bill would make it a crime to use the title of “insurance premium finance company” without a license, or to make a false statement in an application, notice, or report filed with the commissioner. Because this bill creates new crimes, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason. However, existing provisions of the Industrial Loan Law would continue to govern industrial loan companies that act as premium finance agencies and that provide insurance premium financing. These entities would not be governed by the Industrial Bank Law.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes no*.~~

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

- 1 SECTION 1. Section 100 of the Financial Code is
- 2 amended to read:
- 3 100. This division is applicable to the following:
- 4 (a) All corporations engaging in commercial banking,
- 5 industrial banking, or the trust business.
- 6 (b) All national banking associations authorized to
- 7 transact business in this state to the extent that the
- 8 provisions of this division are not inconsistent with and do
- 9 not infringe paramount federal laws governing national
- 10 banking associations.
- 11 (c) All other corporations as shall subject themselves
- 12 to the special provisions and sections of this division.
- 13 (d) All other persons, associations, copartnerships, or
- 14 corporations who, by violating any of its provisions,



1 become subject to the penalties provided for in this  
2 division.

3 SEC. 2. Section 102 of the Financial Code is amended  
4 to read:

5 102. The word “bank” as used in this division means  
6 any incorporated banking institution that shall have been  
7 incorporated to engage in commercial banking business,  
8 industrial banking, or trust business.

9 SEC. 3. Section 103 of the Financial Code is amended  
10 to read:

11 103. Banks are divided into the following classes:

12 (a) Commercial banks.

13 (b) Industrial banks.

14 (c) Trust companies.

15 SEC. 4. Section 105 of the Financial Code is amended  
16 to read:

17 105. “Commercial bank” means a bank authorized to  
18 engage in the commercial banking business.

19 SEC. 5. Section 105.3 is added to the Financial Code,  
20 to read:

21 105.3. “Industrial bank” means a corporation  
22 organized under the laws of this state or a corporation of  
23 similar type organized under the laws of any state of the  
24 United States other than this state that is authorized to  
25 engage in the industrial banking business in this state, but  
26 does not include an insurance premium finance company  
27 subject to Division 7.

28 SEC. 6. Section 105.5 is added to the Financial Code,  
29 to read:

30 105.5. “Commercial banking business” includes  
31 receiving deposits of money or its equivalent, including  
32 demand deposits, savings deposits, and time deposits; to  
33 lend money on the security of real or personal property  
34 or without security; to discount or deal in bills, notes, or  
35 other commercial paper; to buy and sell for the account  
36 of customers, and, if eligible for investment, for its own  
37 account, securities, gold and silver bullion, foreign coins,  
38 and bills of exchange.

39 SEC. 7. Section 105.7 is added to the Financial Code,  
40 to read:



1 105.7. “Industrial banking business” includes the  
2 making of loans and acceptance of deposits, including the  
3 issuance of investment or thrift certificates, but not  
4 demand deposits.

5 SEC. 8. Section 107 of the Financial Code is amended  
6 to read:

7 107. “Trust company” means a corporation, industrial  
8 bank, or a commercial bank that is authorized to engage  
9 in the trust business.

10 SEC. 9. Section 109 of the Financial Code is amended  
11 to read:

12 109. “Bank” or “banks” embraces commercial banks,  
13 industrial banks, and trust companies unless the context  
14 otherwise requires. However, “bank” does not include a  
15 savings association or a credit union.

16 SEC. 10. Section 116 of the Financial Code is amended  
17 to read:

18 116. No corporation shall hereafter be organized  
19 under the laws of this state to transact the business of a  
20 commercial bank, industrial bank, or trust company  
21 except as provided in this division.

22 SEC. 11. Section 139.6 of the Financial Code is  
23 repealed.

24 SEC. 12. Section 276 of the Financial Code is amended  
25 to read:

26 276. (a) In this section, “assessment statute” means  
27 any statute that authorizes the commissioner to make or  
28 collect an assessment (other than a fine) on financial  
29 institutions, including the following:

30 (1) Sections 270 to 271.5, inclusive.

31 (2) Section 1801.1.

32 (3) Section 33302.

33 (4) Article 2 (commencing with Section 8030) of  
34 Chapter 7 of Division 2.

35 (5) Article 4 (commencing with Section 14350) of  
36 Chapter 3 of Division 5.

37 (6) Section 1402.

38 (b) The commissioner may charge to and collect from  
39 the Financial Institutions Fund, the Credit Union Fund,  
40 each of the accounts included in the Financial Institutions



1 Fund, and each of the programs included in the State  
2 Banking Account an amount equal to the fund's,  
3 account's, or program's pro rata share of those expenses  
4 of the department which, in the opinion of the  
5 commissioner, it is not feasible to attribute to any single  
6 one of the funds, accounts, or programs. The fund's,  
7 account's, or program's pro rata share shall be  
8 determined and paid in the manner and at the time  
9 ordered by the commissioner.

10 (c) The provisions of any assessment statute that  
11 authorize the commissioner to make or collect an  
12 assessment for the purposes specified in the assessment  
13 statute include authority for the commissioner to make  
14 and collect an assessment for the additional purpose of  
15 providing money in an amount that will, in the  
16 commissioner's judgment, be sufficient to make  
17 payments that may be required under subdivision (b).

18 SEC. 13. Section 600 of the Financial Code is amended  
19 to read:

20 600. The articles of each bank shall contain the  
21 applicable one of the following statements:

22 (a) In case the bank is, or is proposed to be, a  
23 commercial bank not authorized to engage in trust  
24 business, that the purpose of the corporation is to engage  
25 in commercial banking business and any other lawful  
26 activities which are not, by applicable laws or regulations,  
27 prohibited to a commercial bank.

28 (b) In case the bank is, or is proposed to be, a  
29 commercial bank authorized to engage in trust business,  
30 that the purpose of the corporation is to engage in  
31 commercial banking business and trust business and any  
32 other lawful activities which are not, by applicable laws  
33 or regulations, prohibited to a commercial bank  
34 authorized to engage in trust business.

35 (c) In case the bank is, or is proposed to be, an  
36 industrial bank not authorized to engage in trust business,  
37 that the purpose of the corporation is to engage in  
38 industrial banking business and any other lawful activities  
39 which are not, by applicable laws or regulations,  
40 prohibited to an industrial bank.



1 (d) In case the bank is, or is proposed to be, an  
2 industrial bank authorized to engage in trust business,  
3 that the purpose of the corporation is to engage in  
4 industrial banking business and trust business and any  
5 other lawful activities which are not, by applicable laws  
6 or regulations, prohibited to an industrial bank  
7 authorized to engage in trust business.

8 (e) In case the bank is, or is proposed to be, a trust  
9 company (other than a commercial bank authorized to  
10 engage in trust business), that the purpose of the  
11 corporation is to engage in trust business and any other  
12 lawful activities which are not, by applicable laws or  
13 regulations, prohibited to a trust company.

14 SEC. 14. Chapter 11 (commencing with Section 1400)  
15 is added to Division 1 of the Financial Code, to read:

16  
17 CHAPTER 11. INDUSTRIAL BANKS

18  
19 Article 1. General Provisions

20  
21 1400. The terms “industrial loan company,” “thrift  
22 and loan,” and “investment and loan” mean an industrial  
23 bank.

24 1401. As of the operative date of this section:

25 (a) There is established an Industrial Bank Account in  
26 the Financial Institutions Fund in the State Treasury. All  
27 money received or collected by the commissioner in  
28 administering the laws relating to industrial banks or the  
29 industrial banking business shall be deposited in the State  
30 Treasury to the credit of the Industrial Bank Account of  
31 the Financial Institutions Fund.

32 (b) All moneys and other assets and all liabilities of the  
33 Industrial Loan Account of the Financial Institutions  
34 Fund shall be transferred to the Industrial Bank Account  
35 of the Financial Institutions Fund.

36 1402. (a) The commissioner shall annually levy on  
37 and collect from industrial banks authorized to transact  
38 industrial banking business in this state, pro rata on the  
39 basis of total assets, an assessment in a total amount that  
40 is sufficient in the commissioner’s judgment to (1) meet



1 the expenses of the department in administering laws  
2 relating to industrial banks or to the industrial banking  
3 business that are not otherwise provided for and (2)  
4 provide a reasonable reserve for contingencies.

5 (b) The amount of the annual assessment on any  
6 industrial bank authorized to transact the industrial  
7 banking business shall be the greater (1) five thousand  
8 dollars (\$5,000) or (2) the sum of the products  
9 determined by multiplying (A) increments of the bank's  
10 or trust company's total assets by (B) percentages of the  
11 base assessment rate according to the following table:

13 Total Assets	
14 (In Percentage of Base Millions)	Assessment Rate
15 First \$2 .....	100.0
16 Next \$18 .....	50.0
17 Next \$80 .....	12.0
18 Next \$100 .....	6.25
19 Next \$800 .....	6.0
20 Next \$1,000 .....	4.0
21 Next \$4,000 .....	3.5
22 Next \$14,000 .....	3.0
23 Next \$20,000 .....	2.5
24 Excess over \$40,000 .....	1.5

25  
26 (c) (1) For purposes of the annual assessment, the  
27 total assets of an industrial bank authorized to transact  
28 industrial banking business shall be determined as of a  
29 date fixed by the commissioner. However, if an industrial  
30 loan company is not authorized to transact industrial  
31 banking business as of that date but is so authorized as of  
32 the date when the annual assessment is levied, its total  
33 assets for purposes of the annual assessment shall be  
34 determined as of the date of the levy.

35 (2) (A) In determining for purposes of the annual  
36 assessment on the total assets of industrial banks that are  
37 authorized to transact industrial banking business and  
38 that have one or more foreign (other state) branch offices  
39 or facilities, the assets of the foreign (other state) branch  
40 offices and facilities shall be excluded from total assets.



1 However, the commissioner may order the assets of  
2 foreign (other state) branch offices and facilities to be  
3 included in total assets if and to the extent that it is  
4 necessary or advisable in the commissioner's judgment to  
5 (i) meet the expenses of the department on account of  
6 foreign (other state) branch offices and facilities that are  
7 not otherwise provided for and (ii) provide a reasonable  
8 reserve for contingencies.

9 (B) If the commissioner finds that an industrial bank  
10 authorized to transact industrial banking business  
11 allocated any asset to a foreign (other state) branch office  
12 or facility for the purpose, in whole or in part, of reducing  
13 its annual assessment, the commissioner may, for  
14 purposes of calculating the annual assessment on the  
15 industrial bank, reallocate the asset to the industrial  
16 bank's head office.

17 (d) The base assessment rate for each annual  
18 assessment shall be fixed by the commissioner but shall  
19 not exceed two dollars and twenty cents (\$2.20) per one  
20 thousand dollars (\$1,000) of total assets.

21

## 22 Article 2. Business of Industrial Banks

23

24 1403. Industrial banks shall maintain insurance of  
25 accounts from the Federal Deposit Insurance  
26 Corporation.

27 1404. Subject to any order or regulation of the  
28 commissioner, an industrial bank may issue deposits,  
29 including investment or thrift certificates, that are  
30 redeemable prior to their stated maturity, but may not  
31 issue demand deposits.

32 1405. In addition to other provisions of this division  
33 that are otherwise applicable to an industrial bank, the  
34 following provisions of this division apply to the industrial  
35 bank as if it were a California state commercial bank:

36 (a) Chapter 5 (commencing with Section 600).

37 (b) Chapter 6 (commencing with Section 750).

38 (c) Chapter 7 (commencing with Section 850).

39 (d) Chapter 8 (commencing with Section 952).

40 (e) Chapter 10 (commencing with Section 1200).



- 1 (f) Chapter 12 (commencing with Section 1500).
- 2 (g) Chapter 13 (commencing with Section ~~650~~ 1650).
- 3 (h) Chapter 15 (commencing with Section 1900).
- 4 (i) Chapter 17 (commencing with Section 3100).
- 5 (j) Chapter 18 (commencing with Section 3350).
- 6 (k) Chapter 20 (commencing with Section 3600).
- 7 (l) Chapter 21 (commencing with Section 3700).

8 1406. If any provision of any code refers to “bank” or  
 9 “commercial bank,” the reference shall be deemed to  
 10 include “industrial bank.”

11  
 12 Article 3. Transition Provisions

13  
 14 1450. In this article:

15 (a) “Prior Industrial Loan Law” means Division 7, as  
 16 in effect on December 31, 2000.

17 (b) “Revised Banking Law” means this division, as in  
 18 effect on and after January 1, 2001.

19 (c) “Subject institution” means any corporation  
 20 incorporated under the laws of this state which is  
 21 authorized by the commissioner to engage in, the  
 22 industrial loan business under the Prior Industrial Loan  
 23 Law as of December 31, 2000.

24 1451. (a) As of January 1, 2001, the articles of  
 25 incorporation of a subject institution shall be deemed to  
 26 be amended to comply with the requirements of  
 27 subdivision (c) of Section 600 of the Revised Banking  
 28 Law.

29 (b) Notwithstanding Section 902 of the Corporations  
 30 Code, an amendment of the articles of a subject  
 31 institution existing on January 1, 2001, which only effects  
 32 a change to comply with the requirements of subdivision  
 33 (c) of Section 600 of the Revised Banking Law, may be  
 34 adopted by approval of the board alone. The amendment  
 35 shall be filed by the Secretary of State, provided the  
 36 amendment otherwise complies with applicable  
 37 provisions of the Revised Banking Law and Corporations  
 38 Code.

39 1452. (a) As of January 1, 2001, a reference in a  
 40 provision of any statute or regulation of this state to



1 industrial loan company shall be deemed to mean  
2 industrial bank, unless the context requires otherwise.

3 ~~SEC. 15. Division 7 (commencing with Section 18000)~~  
4 ~~of the Financial Code is repealed.~~

5 ~~SEC. 16. Division 7 is added to the Financial Code, to~~  
6 ~~read:~~

7

8 ~~DIVISION 7.—INSURANCE PREMIUM FINANCE~~  
9 ~~LAW~~

10

11 ~~CHAPTER 1.—GENERAL PROVISIONS~~

12

13 ~~Article 1.—Short Title, Construction, and Severability~~

14

15 ~~18000. This division shall be known and may be cited~~  
16 ~~as the “Insurance Premium Finance Law.”~~

17 ~~18001. This division shall be liberally construed to~~  
18 ~~accomplish its purposes.~~

19 ~~18002. In this division, subject to Section 18003 and~~  
20 ~~unless otherwise expressly provided, the following apply:~~

21 ~~(a) A reference to a statute or to a regulation includes~~  
22 ~~the statute or regulation as amended, whether before or~~  
23 ~~after the effective date of this division, as well as any new~~  
24 ~~statute or regulation substituted for the referenced~~  
25 ~~statute or regulation after the effective date of this~~  
26 ~~division.~~

27 ~~(b) A reference to a governmental agency or to a~~  
28 ~~public officer includes any governmental agency or~~  
29 ~~public officer that succeeds after the effective date of this~~  
30 ~~division to substantially the same functions as those~~  
31 ~~performed by the referenced governmental agency or~~  
32 ~~public officer on the effective date of this division.~~

33 ~~18003. (a) In case any section in this division refers to~~  
34 ~~a federal statute or regulation as in effect on a specified~~  
35 ~~date and the federal statute or regulation is subsequently~~  
36 ~~changed or replaced, the commissioner may by~~  
37 ~~regulation adopt the change or replacement for purposes~~  
38 ~~of the reference in the section.~~

39 ~~(b) Section 11343.4 and Article 5 (commencing with~~  
40 ~~Section 11346) and Article 6 (commencing with Section~~



1 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of  
2 the Government Code do not apply to any regulation  
3 adopted under this section.

4 (e) The commissioner shall file any regulation adopted  
5 under this section with the Office of Administrative Law  
6 for filing with the Secretary of State and publication in the  
7 California Code of Regulations.

8 (d) Any regulation adopted under this section shall  
9 become effective on the date when it is filed with the  
10 Secretary of State or, if the commissioner specifies a later  
11 date in the regulation or in any written instrument filed  
12 with the regulation, on the later date.

13 (e) Any regulation adopted under this section shall  
14 expire at 12 p.m. on December 31 of the year following  
15 the calendar year in which it becomes effective.

16 18004. (a) All references in this division and in  
17 Division 1 (commencing with Section 100) of Title 1 of  
18 the Corporations Code, to balance sheets, statements of  
19 income, statements of changes in capital accounts  
20 statements of cash flows, and other financial statements  
21 of a savings bank, and all references to assets, liabilities,  
22 earnings, retained earnings, shareholders' equity, and  
23 other accounting items of a savings bank mean the  
24 financial statements or accounting items prepared or  
25 determined in conformity with generally accepted  
26 accounting principles then applicable, fairly presenting  
27 in conformity with generally accepted accounting  
28 principles the matters that they purport to present,  
29 subject to any specific accounting treatment required by  
30 any provision of Division 1 (commencing with Section  
31 100) of Title 1 of the Corporations Code, of this division,  
32 or of any regulation or order issued under this division.

33 (b) The commissioner may, by regulation or order,  
34 require that any financial statement or accounting item  
35 of a savings bank be prepared or determined in a manner  
36 other than in conformity with generally accepted  
37 accounting principles if the commissioner finds that the  
38 other manner is necessary or advisable to carry out the  
39 purposes or provisions of this division.



1 18005. ~~If any provision of this division or the~~  
2 ~~application thereof to any person or circumstances is held~~  
3 ~~invalid, illegal, or unenforceable, the invalidity, illegality,~~  
4 ~~or unenforceability shall not affect other provisions or~~  
5 ~~applications of this division which can be given effect~~  
6 ~~without the invalid, illegal, or unenforceable provision or~~  
7 ~~application; and, to this end, the provisions of this division~~  
8 ~~are declared to be severable.~~

9

10 Article 2. ~~Legislative Findings and Purposes~~

11

12 18020. ~~The Legislature finds all of the following:~~

13 (a) ~~That it is necessary to provide credit for the~~  
14 ~~purpose of financing insurance contracts.~~

15 (b) ~~That it is desirable to simplify, clarify, and~~  
16 ~~modernize the law governing the insurance premium~~  
17 ~~finance business.~~

18 (c) ~~That it is necessary to protect borrowers against~~  
19 ~~unfair practices by some persons engaging in insurance~~  
20 ~~premium finance business, having due regard for the~~  
21 ~~interests of legitimate and scrupulous insurance premium~~  
22 ~~finance corporations.~~

23 (d) ~~That it is desirable to permit and encourage the~~  
24 ~~development of fair and economically sound insurance~~  
25 ~~premium finance business practices.~~

26 (e) ~~That it is appropriate to provide for licensing and~~  
27 ~~regulation of insurance premium finance corporations.~~

28 (f) ~~That only California corporations should be~~  
29 ~~licensed to transact insurance premium finance business~~  
30 ~~because, compared to other types of persons, California~~  
31 ~~corporations can be more effectively regulated and~~  
32 ~~supervised, have greater permanency of existence, and~~  
33 ~~can give better assurance of uninterrupted service.~~

34 18021. (a) ~~The purposes of this division are as follows:~~

35 (1) ~~To provide for the licensing and regulation of~~  
36 ~~insurance premium finance corporations which will~~  
37 ~~provide financing assistance primarily to consumers and~~  
38 ~~business firms in this state.~~

39 (2) ~~To provide for the safe and sound conduct of the~~  
40 ~~business of licensees.~~



1 ~~(3) To promote the public convenience and~~  
2 ~~advantage.~~

3 ~~(b) The purposes of this division, as set forth in~~  
4 ~~subdivision (a), constitute standards that the~~  
5 ~~commissioner shall observe in administering the~~  
6 ~~provisions of this division.~~

7  
8 ~~Article 3. Definitions~~  
9

10 ~~18040. Subject to additional definitions contained in~~  
11 ~~this division that are applicable to specific provisions of~~  
12 ~~this division, and unless the context otherwise requires,~~  
13 ~~the definitions in this article apply throughout this~~  
14 ~~division.~~

15 ~~18041. “Act” includes omission.~~

16 ~~18042. “Affiliate,” when used with respect to a~~  
17 ~~specified person, means any person (other than a natural~~  
18 ~~person) controlling, controlled by, or under common~~  
19 ~~control with, the specified person, directly or indirectly~~  
20 ~~through one or more intermediaries.~~

21 ~~18043. “Articles” has the meaning set forth in Section~~  
22 ~~154 of the Corporations Code.~~

23 ~~18044. “Business day” means any day other than (a)~~  
24 ~~Saturday, (b) Sunday, or (c) any other day that is~~  
25 ~~specified or provided for as a holiday in the Government~~  
26 ~~Code.~~

27 ~~18045. “California corporation” means any~~  
28 ~~corporation organized under the General Corporation~~  
29 ~~Law (Division 1 (commencing with Section 100) of Title~~  
30 ~~1 of the Corporations Code).~~

31 ~~18046. “Commissioner” means the Commissioner of~~  
32 ~~Financial Institutions.~~

33 ~~18047. “Control,” when used with respect to a~~  
34 ~~specified person, means possession, direct or indirect, of~~  
35 ~~the power to do either of the following:~~

36 ~~(a) To vote 35 percent or more of any class of the~~  
37 ~~voting securities issued by the specified person.~~

38 ~~(b) To direct or cause the direction of the~~  
39 ~~management and policies of that specified person,~~  
40 ~~whether through the ownership of voting securities, by~~

1 contract (other than a commercial contract for goods or  
2 nonmanagement services), or otherwise; provided,  
3 however, that no natural person shall be deemed to  
4 control a person solely on account of being a director,  
5 officer, or employee of that person. For purposes of this  
6 subdivision, any person who, directly or indirectly, owns  
7 of record or beneficially, holds with power to vote, or  
8 holds proxies with discretionary authority to vote, 20  
9 percent or more of any class of the then outstanding  
10 voting securities issued by a corporation shall be  
11 rebuttably presumed to control that corporation. This  
12 presumption is a presumption affecting the burden of  
13 proof.

14 18048. “Controlling person,” when used with respect  
15 to a specified person other than a natural person, means  
16 any person that controls the specified person, directly or  
17 indirectly through one or more intermediaries.

18 18049. “Department” means the Department of  
19 Financial Institutions.

20 18050. “Finance charge” means any amount that the  
21 insured agrees to pay the company in excess of the  
22 premium and fees charged by the insurer or producer,  
23 and exclusive of the cost of credit life insurance and  
24 attorney fees.

25 18051. To “include” means by way of enlargement  
26 and not by way of limitation.

27 18052. To “issue,” when used with respect to any  
28 regulation or order, includes to adopt, amend, repeal, or  
29 rescind.

30 18053. “Insurance premium finance business” means  
31 the business of advancing money directly or indirectly to  
32 an insurer or producer at the request of an insured  
33 pursuant to the terms of a premium finance agreement,  
34 wherein the insured has assigned the unearned  
35 premiums, accrued dividends, or loss payments as  
36 security for that advancement in payment of premiums  
37 on insurance contracts only, and acquiring premium  
38 finance agreements, and does not include the financing  
39 of insurance contract premiums purchased in connection  
40 with the financing of goods and services.



1 ~~18054. “Insurance premium finance corporation”~~  
2 ~~means a corporation engaging in the insurance premium~~  
3 ~~finance business.~~

4 ~~18055. “Insured:”~~

5 ~~(a) When used with respect to an insurance contract,~~  
6 ~~means the person who is indemnified under the~~  
7 ~~insurance contract.~~

8 ~~(b) When used with respect to premium finance~~  
9 ~~agreement, means the person who is obligated to make~~  
10 ~~payments to an insurance premium finance corporation~~  
11 ~~under the premium finance agreement.~~

12 ~~18056. “Insurer” has the meaning set forth in Section~~  
13 ~~23 of the Insurance Code.~~

14 ~~18057. “License” means a license issued under this~~  
15 ~~division.~~

16 ~~18058. “Licensee” means a corporation that is~~  
17 ~~licensed under this division to engage in the insurance~~  
18 ~~premium finance business.~~

19 ~~18059. “Officer:”~~

20 ~~(a) When used with respect to a corporation, means~~  
21 ~~any person appointed or designated as an officer of the~~  
22 ~~corporation by or pursuant to applicable law or the~~  
23 ~~articles or bylaws of the corporation or any person who~~  
24 ~~performs with respect to the corporation functions~~  
25 ~~usually performed by an officer of a corporation.~~

26 ~~(b) When used with respect to a specified person other~~  
27 ~~than a natural person or a corporation, means any person~~  
28 ~~who performs with respect to the specified person~~  
29 ~~functions usually performed by an officer of a corporation~~  
30 ~~with respect to the corporation.~~

31 ~~18060. “Order” means any approval, consent,~~  
32 ~~authorization, exemption, exception, denial, objection to~~  
33 ~~a notice, statement not objecting to a notice, prohibition,~~  
34 ~~or requirement applicable to a specific case issued by the~~  
35 ~~commissioner, including any condition thereof. “Order”~~  
36 ~~does not include any license issued under this division but~~  
37 ~~does include any condition of that license.~~

38 ~~18061. “Premium finance agreement” means a loan~~  
39 ~~contract, note, agreement, or obligation by which an~~  
40 ~~insured agrees to pay to an insurance premium finance~~



1 corporation in installments the principal amount  
2 advanced by the insurance premium finance corporation  
3 to an insurer or producer in payment of a premium on an  
4 insurance contract or contracts, plus charges, with the  
5 assignment, as security therefor, of the unearned  
6 premiums, accrued dividends, or loss payments, the final  
7 installment due date of the agreement not to extend  
8 beyond the term of the insurance contract included in the  
9 agreement having the latest expiration date.

10 18062. “Person” means any natural person,  
11 proprietorship, joint venture, partnership, trust, business  
12 trust, syndicate, association, joint stock company,  
13 corporation, limited liability company, government,  
14 agency of any government, or any other organization.  
15 However, “person,” when used with respect to acquiring  
16 control of or controlling a specified person, includes any  
17 combination of two or more persons acting in concert.

18 18063. “Principal balance” means the difference  
19 between the amount of the premium and fees charged by  
20 the insurer or producer and the downpayment on the  
21 premium.

22 18064. “Producer” has the meaning set forth in  
23 subdivision (f) of Section 1216.1 of the Insurance Code.

24 18065. “Vote” has the meaning set forth in Section 194  
25 of the Corporations Code.

26 18066. “Voting power” has the meaning set forth in  
27 Section 194.5 of the Corporations Code.

28

#### 29 Article 4. Other General Provisions

30

31 18090. If and to the extent that any provision of this  
32 division is preempted by federal law, the provision does  
33 not apply and shall not be enforced.

34 18091. No provision of this division imposing any  
35 liability or sanction applies to any act committed in good  
36 faith in conformity with any regulation, order, or written  
37 interpretive opinion of the commissioner or an opinion of  
38 the Attorney General, notwithstanding that the  
39 regulation, order, or written interpretive opinion may  
40 later be amended, rescinded, or repealed or be



1 ~~determined by judicial or other authority to be invalid for~~  
2 ~~any reason.~~

3 ~~18092. (a) No extension of credit made by a~~  
4 ~~California corporation engaging in insurance premium~~  
5 ~~finance business that is in violation of any provision of this~~  
6 ~~division or of any regulation or order issued under this~~  
7 ~~division, is on that account invalid or illegal as between~~  
8 ~~the parties to the transaction.~~

9 ~~(b) No extension of credit made to a California~~  
10 ~~corporation engaging in insurance premium finance~~  
11 ~~business that is in violation of any provision of this division~~  
12 ~~or of any regulation or order issued under this division, is~~  
13 ~~on that account invalid or illegal as between the parties~~  
14 ~~to the transaction.~~

15 ~~18093. (a) A California corporation licensed under~~  
16 ~~this division is exempt from the restrictions of Section 1~~  
17 ~~of Article XV of the Constitution relating to rates of~~  
18 ~~interest upon the loan or forbearance of any money,~~  
19 ~~goods, or things in action or on accounts after demand.~~

20 ~~(b) This section does not exempt a California~~  
21 ~~corporation licensed under this division from complying~~  
22 ~~with all other laws and regulations governing the business~~  
23 ~~in which it is engaged.~~

24 ~~(c) This section creates and authorizes an exempt class~~  
25 ~~of persons pursuant to Section 1 of Article XV of the~~  
26 ~~Constitution.~~

27 ~~It is the intent of the Legislature to preserve existing~~  
28 ~~exemption under Section 1 of Article XV of the~~  
29 ~~Constitution and statutory law for premium finance~~  
30 ~~agencies formerly regulated by the Industrial Loan Law.~~

31 ~~18094. This division does not apply to any person~~  
32 ~~doing business under any law of this state or of the United~~  
33 ~~States relating to banks, trust companies, savings~~  
34 ~~associations, industrial loan companies, credit unions,~~  
35 ~~small business investment companies, California business~~  
36 ~~and industrial development corporations, or licensed~~  
37 ~~California finance lenders.~~

38 ~~18095. No insurance premium finance corporation~~  
39 ~~shall be a close corporation, as defined in Section 158 of~~  
40 ~~the Corporations Code.~~



CHAPTER 2. ~~PROHIBITIONS~~

1  
2  
3 ~~18100. (a) Except as otherwise provided in Section~~  
4 ~~18101, it is unlawful for any person, other than a California~~  
5 ~~corporation that is licensed by the commissioner to~~  
6 ~~engage in insurance premium finance business, willfully~~  
7 ~~to use in this state any name or title that indicates that it~~  
8 ~~is an insurance premium finance corporation or to~~  
9 ~~otherwise represent that it is an insurance premium~~  
10 ~~finance corporation.~~

11 ~~(b) Any person who violates subdivision (a) shall upon~~  
12 ~~conviction be punished by a fine of not more than one~~  
13 ~~hundred thousand dollars (\$100,000), by imprisonment in~~  
14 ~~a county jail for not more than one year or in the state~~  
15 ~~prison, or by both that fine and imprisonment.~~

16 ~~18101. Section 18100 does not apply to any of the~~  
17 ~~following:~~

18 ~~(a) Any California state commercial bank.~~

19 ~~(b) Any California state industrial bank.~~

20 ~~(c) Any national bank.~~

21 ~~(d) Any insured foreign (other state) state~~  
22 ~~commercial bank.~~

23 ~~(e) Any foreign (other state) state commercial bank~~  
24 ~~that is licensed by the commissioner under Article 4~~  
25 ~~(commencing with Section 3860) of Chapter 22 of~~  
26 ~~Division 1 to maintain a facility (as defined in Section~~  
27 ~~3800) in this state.~~

28 ~~(f) Any foreign (other nation) bank (as defined in~~  
29 ~~Section 139.4) that is licensed by the commissioner under~~  
30 ~~Chapter 13.5 (commencing with Section 1700) of~~  
31 ~~Division 1 to maintain an office (as defined in Section~~  
32 ~~1700) in this state.~~

33 ~~(g) Any foreign (other nation) bank (as defined in~~  
34 ~~Section 139.4) that maintains a federal agency (as defined~~  
35 ~~in Section 1700) or federal branch (as defined in Section~~  
36 ~~1700) in this state.~~

37 ~~(h) Any California state savings association.~~

38 ~~(i) Any federal savings association.~~

39 ~~(j) Any insured foreign (other state) state savings~~  
40 ~~association.~~



1 ~~18102. (a) Except as otherwise provided in Section~~  
 2 ~~18103, it is unlawful for any person, other than a California~~  
 3 ~~corporation that is licensed by the commissioner to~~  
 4 ~~engage in insurance premium finance business, willfully~~  
 5 ~~to represent that it is licensed or otherwise authorized to~~  
 6 ~~engage in insurance premium finance business by the~~  
 7 ~~commissioner, by the department, or by any other official~~  
 8 ~~or agency of or within this state.~~

9 ~~(b) Any person who violates subdivision (a) shall upon~~  
 10 ~~conviction be punished by a fine of not more than one~~  
 11 ~~hundred thousand dollars (\$100,000), by imprisonment in~~  
 12 ~~a county jail for not more than one year or in the state~~  
 13 ~~prison, or by both that fine and imprisonment.~~

14 ~~18103. Section 18102 does not apply to any of the~~  
 15 ~~following:~~

- 16 ~~(a) Any California state commercial bank.~~
- 17 ~~(b) Any California state industrial bank.~~
- 18 ~~(c) Any California state savings association.~~
- 19 ~~(d) Any foreign (other state) state savings association~~  
 20 ~~that conducts business in this state with the approval of~~  
 21 ~~the commissioner under Chapter 10 (commencing with~~  
 22 ~~Section 10000) of Division 2.~~

23  
 24 ~~CHAPTER 3. ADMINISTRATION~~

25  
 26 ~~Article 1. General Provisions~~

27  
 28 ~~18140. The provisions of this division shall be~~  
 29 ~~administered by the commissioner.~~

30 ~~18141. (a) The several powers granted to the~~  
 31 ~~commissioner under this division are in addition to, and~~  
 32 ~~not in limitation of, each other. The fact that the~~  
 33 ~~commissioner possesses, or has exercised, a power under~~  
 34 ~~any provision of this division shall not preclude the~~  
 35 ~~commissioner from exercising a power under any other~~  
 36 ~~provision of this division.~~

37 ~~(b) The several powers granted to the commissioner~~  
 38 ~~under this division are in addition to, and not in limitation~~  
 39 ~~of, the commissioner's powers under other provisions of~~  
 40 ~~law. The fact that the commissioner possesses, or has~~



1 exercised, a power under any other provision of law shall  
2 not preclude the commissioner from exercising any  
3 power under this division; nor shall the fact that the  
4 commissioner possesses, or has exercised, a power under  
5 any provision of this division preclude the commissioner  
6 from exercising a power under any other provision of law.

7 18142. Every final order, decision, license, or other  
8 official act of the commissioner under this division is  
9 subject to judicial review in accordance with law.

10 18143. (a) The commissioner may from time to time  
11 issue any regulations or orders that are in the  
12 commissioner's opinion necessary or advisable to carry  
13 out the provisions and purposes of this division.

14 (b) Regulations and orders issued under this division  
15 may, among other things, define any term used in this  
16 division.

17 (c) For purposes of regulations and orders issued  
18 under this division, the commissioner may classify  
19 persons, transactions, and other matters within the  
20 commissioner's jurisdiction, and may prescribe different  
21 regulations or orders for different classes.

22 (d) The commissioner may waive any provision of any  
23 regulation issued under this division in any case where in  
24 the commissioner's opinion the provision is either not  
25 necessary or not advisable in the public interest.

26 18144. Whenever the commissioner issues an order or  
27 license under this division, the commissioner may impose  
28 any conditions that are in the commissioner's opinion  
29 necessary or advisable to carry out the provisions and  
30 purposes of this division.

31 18145. The commissioner may, for good cause,  
32 amend, suspend, or revoke any order issued under this  
33 division.

34 18146. In any proceeding under this division:

35 (a) The burden of proving that the commissioner  
36 should approve an application is upon the applicant.

37 (b) The burden of proving that the commissioner  
38 should not object to a notice is upon the notifier.

39 (c) The burden of proving an exemption or exception  
40 is upon the person claiming the exemption or exception.



1 ~~18147. The commissioner may, upon application or~~  
2 ~~upon his or her own initiative, issue interpretive opinions~~  
3 ~~regarding any provision of this division or of any~~  
4 ~~regulation or order issued under this division.~~

5 ~~18148. (a) The commissioner may do the following:~~

6 ~~(1) Make any public or private investigations within or~~  
7 ~~outside this state that the commissioner deems necessary~~  
8 ~~or advisable to determine whether to approve or deny~~  
9 ~~any application, or to object or not object to any notice,~~  
10 ~~filed with the commissioner under this division or under~~  
11 ~~any regulation or order issued under this division, to~~  
12 ~~determine whether any person has violated or is about to~~  
13 ~~violate any provision of this division or of any regulation~~  
14 ~~or order issued under this division, to aid in the~~  
15 ~~enforcement of any provision of this division or of any~~  
16 ~~regulation or order issued under this division, or to aid in~~  
17 ~~the issuing of regulations or orders under this division.~~

18 ~~(2) Publish information concerning any violation of~~  
19 ~~any provision of this division or of any regulation or order~~  
20 ~~issued under this division.~~

21 ~~(b) For purposes of any investigation, examination, or~~  
22 ~~other proceeding under this division, the commissioner~~  
23 ~~may administer oaths and affirmations, subpoena~~  
24 ~~witnesses, compel their attendance, take evidence, and~~  
25 ~~require the production of any documents that the~~  
26 ~~commissioner deems relevant or material to the inquiry.~~

27 ~~(c) In case of contumacy by, or refusal to obey a~~  
28 ~~subpoena issued to, any person, the superior court, upon~~  
29 ~~application by the commissioner, may issue to the person~~  
30 ~~an order requiring the person to appear before the~~  
31 ~~commissioner, there to produce documentary evidence,~~  
32 ~~if so ordered, or to give evidence touching the matter~~  
33 ~~under investigation or in question. Failure to obey the~~  
34 ~~order of the court may be punished by the court as a~~  
35 ~~contempt.~~

36 ~~18149. The commissioner may refer evidence~~  
37 ~~concerning any violation of this division or of any~~  
38 ~~regulation or order issued under this division that~~  
39 ~~constitutes a crime to the district attorney of the county~~  
40 ~~in which such violation occurred, who may, with or~~



1 ~~without such a reference, institute appropriate criminal~~  
2 ~~proceedings.~~

3

4 ~~Article 2. Applications, Notices, and Reports~~

5

6 ~~18160. Whenever this division or any regulation or~~  
7 ~~order issued under this division provides, in substance,~~  
8 ~~that a person may take an action with the approval of the~~  
9 ~~commissioner or may not take an action without the~~  
10 ~~approval of the commissioner or that a person's action~~  
11 ~~may take effect with the approval of the commissioner or~~  
12 ~~may not take effect without the approval of the~~  
13 ~~commissioner.~~

14 ~~(a) The person shall file an application for the~~  
15 ~~approval with the commissioner.~~

16 ~~(b) The person may not take the action unless the~~  
17 ~~commissioner has first granted approval and unless the~~  
18 ~~approval is then in effect.~~

19 ~~(c) The person may not take the action except in~~  
20 ~~compliance with the provisions of the approval.~~

21 ~~18161. Whenever this division or any regulation or~~  
22 ~~order issued under this division provides, in substance,~~  
23 ~~that a person may take an action not less than a specified~~  
24 ~~period of time after filing a notice with the commissioner~~  
25 ~~or that a person may not take an action unless the person~~  
26 ~~files a notice with the commissioner not less than a~~  
27 ~~specified period of time before taking the action:~~

28 ~~(a) The person shall file a notice with the~~  
29 ~~commissioner.~~

30 ~~(b) In determining when a notice is filed with the~~  
31 ~~commissioner for purposes of calculating the specified~~  
32 ~~period or any longer period to which the person consents,~~  
33 ~~the notice shall not be deemed to be filed with the~~  
34 ~~commissioner until the complete notice, including any~~  
35 ~~amendments or supplements, containing all the~~  
36 ~~information required by the commissioner, and~~  
37 ~~otherwise complying with this division and any~~  
38 ~~regulation or order issued under this division, is filed with~~  
39 ~~the commissioner.~~



1 ~~(c) The person may not take the action if, during the~~  
2 ~~specified period or any longer period to which the person~~  
3 ~~consents, the commissioner objects to the notice.~~

4 ~~(d) The person may not take the action during the~~  
5 ~~specified period or any longer period to which the person~~  
6 ~~consents, except that, if, during the specified period or~~  
7 ~~longer period, the commissioner issues a statement not~~  
8 ~~objecting to the notice, the person may thereafter take~~  
9 ~~the action. However, in case the commissioner timely~~  
10 ~~issues a statement not objecting to the notice, the person~~  
11 ~~may not take the action except in compliance with the~~  
12 ~~provisions of the statement.~~

13 ~~(e) The person may take the action after the specified~~  
14 ~~period or any longer period to which the person consents~~  
15 ~~expires if, during the specified period or longer period,~~  
16 ~~the commissioner does not object to the notice.~~

17 ~~18162. Each application, notice, and report filed with~~  
18 ~~the commissioner under this division or under any~~  
19 ~~regulation or order issued under this division shall be in~~  
20 ~~the form, shall contain the information, shall be signed in~~  
21 ~~the manner, and shall, if the commissioner so requires, be~~  
22 ~~verified in the manner, that the commissioner may~~  
23 ~~specify.~~

24 ~~18163. (a) It is unlawful for any person willfully to~~  
25 ~~make any untrue statement of any material fact in any~~  
26 ~~application, notice, or report filed with the commissioner~~  
27 ~~under this division or under any regulation or order~~  
28 ~~issued under this division, or willfully to omit to state in~~  
29 ~~any such application, notice, or report any material fact~~  
30 ~~that is required to be stated therein.~~

31 ~~(b) Any person who violates subdivision (a) shall upon~~  
32 ~~conviction be punished by a fine of not more than one~~  
33 ~~hundred thousand dollars (\$100,000), by imprisonment in~~  
34 ~~a county jail for not more than one year or in the state~~  
35 ~~prison, or by both that fine and imprisonment.~~

36 ~~18164. For purposes of deciding any application or~~  
37 ~~notice filed under this division or under any regulation or~~  
38 ~~order issued under this division, the commissioner may,~~  
39 ~~in the absence of credible evidence to the contrary,~~



1 ~~presume that any person is of good character and sound~~  
2 ~~financial standing.~~

3 ~~18165. (a) For purposes of deciding any application~~  
4 ~~or notice filed under this division or under any regulation~~  
5 ~~or order issued under this division, the commissioner may~~  
6 ~~find that a person is not of good character if the person has~~  
7 ~~done any of the following:~~

8 ~~(1) Has been convicted of, or has pleaded nolo~~  
9 ~~contendere to, any crime involving an act of fraud or~~  
10 ~~dishonesty.~~

11 ~~(2) Has consented to or suffered a judgment in any~~  
12 ~~civil action based upon conduct involving an act of fraud~~  
13 ~~or dishonesty.~~

14 ~~(3) Has consented to or suffered the suspension or~~  
15 ~~revocation of any professional, occupational, or~~  
16 ~~vocational license based upon conduct involving an act of~~  
17 ~~fraud or dishonesty.~~

18 ~~(4) Has willfully made or caused to be made in any~~  
19 ~~application, notice, or report filed with the commissioner~~  
20 ~~or in any proceeding before the commissioner, any~~  
21 ~~statement that was at the time and in the light of the~~  
22 ~~circumstances under which it was made false or~~  
23 ~~misleading with respect to any material fact, or has~~  
24 ~~willfully omitted to state in any such application, notice,~~  
25 ~~or report any material fact that was required to be stated~~  
26 ~~therein.~~

27 ~~(5) Has willfully committed any violation of, or has~~  
28 ~~willfully aided, abetted, counseled, commanded, induced~~  
29 ~~or procured the violation by any other person of, any~~  
30 ~~provision of this division or any regulation or order issued~~  
31 ~~under this division.~~

32 ~~(b) Subdivision (a) is not an exclusive list of the~~  
33 ~~grounds upon which the commissioner may find, for~~  
34 ~~purposes of deciding an application or notice filed under~~  
35 ~~this division or under any regulation or order issued~~  
36 ~~under this division, that a person is not of good character.~~

37 ~~18166. In deciding any application or notice filed~~  
38 ~~under this division or under any regulation or order~~  
39 ~~issued under this division, the commissioner may~~  
40 ~~consider proposals made by the applicant or notifier,~~



1 including proposals to appoint officers or to sell securities;  
2 and, if in the opinion of the commissioner it is probable  
3 that the applicant or notifier will be able to implement  
4 any such proposal, the commissioner may make findings  
5 on the basis of the proposal. However, whenever the  
6 commissioner approves an application or issues a  
7 statement not objecting to a notice on the basis, in whole  
8 or in part, of a proposal made by the applicant or notifier,  
9 the commissioner shall impose upon the approval or  
10 statement appropriate conditions requiring that the  
11 applicant implement the proposal within the period of  
12 time that the commissioner may specify.

13 18167. If the commissioner finds, with respect to any  
14 application or notice filed under this division or under  
15 any regulation or order issued under this division, that not  
16 all the information that was required to be provided in or  
17 in connection with the application or notice has been  
18 provided or that implementation of any proposal  
19 contained in the application or notice would violate any  
20 applicable law, the commissioner may deny the  
21 application or object to the notice.

22 18168. In case any provision of this division or of any  
23 regulation or order issued under this division provides for  
24 the commissioner to consider specified factors in  
25 deciding an application or notice, those are not the  
26 exclusive factors that the commissioner may consider,  
27 and the commissioner may consider any additional  
28 factors that are relevant to the purposes of this division.

29

30 Article 3. Fiscal Matters

31

32 18180. All money received or collected by the  
33 commissioner under this division or any other law  
34 relating to insurance premium finance corporations or  
35 the insurance premium finance business shall be  
36 deposited in the State Treasury to the credit of the  
37 Industrial Bank Account of the Financial Institutions  
38 Fund.

39 18181. All expenses of the department in  
40 administering this division and other laws relating to



1 ~~insurance premium finance corporations or the insurance~~  
2 ~~premium finance business shall be paid out of the~~  
3 ~~Industrial Bank Account.~~

4 ~~18182. The commissioner shall annually levy on and~~  
5 ~~collect from California corporations licensed to engage in~~  
6 ~~insurance premium finance business, pro rata on the basis~~  
7 ~~of total insurance premium finance assets, an assessment~~  
8 ~~in a total amount that is sufficient in the commissioner's~~  
9 ~~opinion to (a) meet the expenses of the department in~~  
10 ~~administering this division and other laws relating to~~  
11 ~~insurance premium finance corporations or the insurance~~  
12 ~~premium finance business that are not otherwise~~  
13 ~~provided for and (b) provide a reasonable reserve for~~  
14 ~~contingencies.~~

15 ~~18183. (a) The amount of the annual assessment on~~  
16 ~~any licensee shall not exceed the sum of the products~~  
17 ~~determined by multiplying (1) increments of the~~  
18 ~~aggregate insurance premium finance assets held by the~~  
19 ~~licensee in the calendar year next preceding the date of~~  
20 ~~such assessment, by (2) percentages of the base~~  
21 ~~assessment rate, according to the following table:~~

Total assets	Percentage of base
(in millions)	assessment rate
First \$1 .....	100.0
Next \$9 .....	25.0
Next \$40 .....	12.5
Next \$50 .....	6.0
Next \$400 .....	3.0
Next \$500 .....	2.0
Excess over \$1,000 .....	1.0

22  
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31  
32  
33 (b) ~~The base assessment rate shall be fixed from time~~  
34 ~~to time by the commissioner but shall not exceed one~~  
35 ~~dollar (\$1) per one thousand dollars (\$1,000) of total~~  
36 ~~insurance premium finance assets.~~

37 ~~18184. For purposes of the annual assessment, the~~  
38 ~~total assets of a licensee shall be determined as of a date~~  
39 ~~fixed by the commissioner. However, if a California~~  
40 ~~corporation is not licensed to engage in insurance~~



1 ~~premium finance business as of that date but is so licensed~~  
2 ~~as of the date when the annual assessment is levied, its~~  
3 ~~total assets for purposes of the annual assessment shall be~~  
4 ~~determined as of the date of the levy.~~

5 ~~18185. (a) Whenever the commissioner levies an~~  
6 ~~annual assessment on licensees, the commissioner shall fix~~  
7 ~~the date when the annual assessment is due and payable~~  
8 ~~and shall promptly mail or otherwise deliver to each~~  
9 ~~licensee assessed an invoice that shows (1) the amount of~~  
10 ~~the licensee's annual assessment and (2) the date when~~  
11 ~~the annual assessment is due and payable.~~

12 ~~(b) The annual assessment on a licensee becomes a~~  
13 ~~liability of the licensee on the date on which the~~  
14 ~~commissioner levies the annual assessment.~~

15 ~~(c) If the annual assessment on a licensee is not paid~~  
16 ~~on time, the commissioner shall be entitled to and shall~~  
17 ~~collect, in addition to the amount of the annual~~  
18 ~~assessment, a penalty of 5 percent of the amount of the~~  
19 ~~unpaid annual assessment for each month or part of a~~  
20 ~~month that the payment is delinquent.~~

21 ~~18186. Fees shall be paid to, and collected by, the~~  
22 ~~commissioner, as follows:~~

23 ~~(1) The fee for filing with the commissioner an~~  
24 ~~application for a license shall be two thousand dollars~~  
25 ~~(\$2,000).~~

26 ~~(2) The fee for filing with the commissioner an~~  
27 ~~application for approval to acquire control of a licensee~~  
28 ~~shall be one thousand dollars (\$1,000).~~

29 ~~(3) The fee for filing with the commissioner an~~  
30 ~~application for approval for a licensee to merge with~~  
31 ~~another corporation; an application for approval for a~~  
32 ~~licensee to purchase all or substantially all of the business~~  
33 ~~of another person, or an application for approval for a~~  
34 ~~licensee to sell all or substantially all of its business or of~~  
35 ~~the business of any of its offices to another licensee, shall~~  
36 ~~be one thousand dollars (\$1,000). However, whenever~~  
37 ~~two or more applications relating to the same merger,~~  
38 ~~purchase, or sale are filed with the commissioner, the fee~~  
39 ~~for filing each application shall be the quotient~~



1 ~~determined by dividing one thousand dollars (\$1,000) by~~  
2 ~~the number of the applications.~~

3 ~~(4) The fee for issuing a license shall be twenty-five~~  
4 ~~dollars (\$25).~~

5 ~~(5) Whenever the commissioner finds it necessary or~~  
6 ~~advisable to make an extra examination of a licensee, the~~  
7 ~~commissioner may charge the licensee a fee of~~  
8 ~~seventy-five dollars (\$75) per hour for each examiner~~  
9 ~~engaged in the extra examination. The licensee shall pay~~  
10 ~~the fee within 10 days after the commissioner mails or~~  
11 ~~otherwise delivers an invoice for the fee to the licensee.~~

12 ~~(b) (1) Each fee for filing an application with the~~  
13 ~~commissioner shall be paid at the time when the~~  
14 ~~application is filed with the commissioner.~~

15 ~~(2) No fee for filing an application with the~~  
16 ~~commissioner shall be refundable, regardless of whether~~  
17 ~~the application is approved, denied, withdrawn, or~~  
18 ~~abandoned.~~

19 ~~18187. Whenever the commissioner finds it necessary~~  
20 ~~or advisable for an examiner engaged in examination of~~  
21 ~~a licensee to travel outside this state, the commissioner~~  
22 ~~may charge the licensee for the travel expenses of the~~  
23 ~~examiner. The licensee shall pay the travel expenses~~  
24 ~~within 10 days after commissioner mails or otherwise~~  
25 ~~delivers an invoice for the travel expenses to the licensee.~~

26

27

#### CHAPTER 4. LICENSING

28

29 ~~18200. No person other than a licensee shall engage in~~  
30 ~~the insurance premium finance business in this state.~~

31 ~~18201. No person other than a corporation organized~~  
32 ~~under the laws of this state may apply for or be issued a~~  
33 ~~license.~~

34 ~~18202. If the commissioner finds, with respect to an~~  
35 ~~application for a license:~~

36 ~~(a) That the applicant has adequate shareholders'~~  
37 ~~equity to engage in the insurance premium finance~~  
38 ~~business and that the financial condition of the applicant~~  
39 ~~is otherwise such that it will be safe and sound for the~~



1 ~~applicant to engage in the insurance premium finance~~  
2 ~~business.~~

3 ~~(b) That the applicant, the directors, officers, and~~  
4 ~~controlling persons of the applicant, and the directors and~~  
5 ~~officers of the controlling persons of the applicant are~~  
6 ~~each of good character and sound financial standing.~~

7 ~~(c) That the applicant is competent to engage in the~~  
8 ~~insurance premium finance business.~~

9 ~~(d) That the applicant's plan for engaging in the~~  
10 ~~insurance premium finance business affords reasonable~~  
11 ~~promise of successful operation.~~

12 ~~(e) That it is reasonable to believe that the applicant,~~  
13 ~~if licensed, will engage in the insurance premium finance~~  
14 ~~business and will comply with all applicable provisions of~~  
15 ~~this division and of any regulation or order issued under~~  
16 ~~this division.~~

17 ~~The commissioner shall approve the application. If,~~  
18 ~~after notice and a hearing, the commissioner finds~~  
19 ~~otherwise, the commissioner shall deny the application.~~

20 ~~18203. For purposes of Section 18202, in determining~~  
21 ~~whether the shareholders' equity of any corporation that~~  
22 ~~is an applicant for a license or that is a licensee is~~  
23 ~~adequate, the commissioner shall consider:~~

24 ~~(a) The nature and volume of the business and~~  
25 ~~proposed business of the corporation.~~

26 ~~(b) The amount, nature, quality, and liquidity of the~~  
27 ~~assets of the corporation.~~

28 ~~(c) The amount and nature of the liabilities (including~~  
29 ~~contingent liabilities) of the corporation.~~

30 ~~(d) The history of, and prospects for, the corporation~~  
31 ~~to earn and retain income.~~

32 ~~(e) The quality of the operations of the corporation.~~

33 ~~(f) The quality of the management of the corporation.~~

34 ~~(g) The nature and quality of the controlling person of~~  
35 ~~the corporation.~~

36 ~~(h) Other relevant factors, in the opinion of the~~  
37 ~~commissioner.~~

38 ~~18204. For purposes of Section 18202, the~~  
39 ~~commissioner may, in the absence of credible evidence~~  
40 ~~to the contrary, presume that an applicant, the directors,~~



1 officers, and controlling persons of an applicant, and the  
2 directors and officers of the controlling persons of an  
3 applicant are each of good character and sound financial  
4 standing.

5 18205. (a) For the purposes of Section 18202, the  
6 commissioner may find that an applicant, a director,  
7 officer, or controlling person of an applicant, or a director  
8 or officer of a controlling person of an applicant is not of  
9 good character if that person:

10 (1) Has been convicted of, or has pleaded nolo  
11 contendere to, any crime involving an act of fraud or  
12 dishonesty.

13 (2) Has consented to or suffered a judgment in any  
14 civil action based upon conduct involving an act of fraud  
15 or dishonesty.

16 (3) Has consented to or suffered the suspension or  
17 revocation of any professional, occupational, or  
18 vocational license based upon conduct involving an act of  
19 fraud or dishonesty.

20 (4) Has willfully made or caused to be made in any  
21 application or report filed with the commissioner or in  
22 any proceeding before the commissioner, any statement  
23 that was at the time and in the light of the circumstances  
24 under which it was made false or misleading with respect  
25 to any material fact, or has willfully omitted to state in that  
26 application or report any material fact that was required  
27 to be stated therein.

28 (5) Has willfully committed any violation of, or has  
29 willfully aided, abetted, counseled, commanded, induced  
30 or procured the violation by any other person of, any  
31 provision of this division or of any regulation or order  
32 issued under this division.

33 (b) Subdivision (a) shall not be deemed to be an  
34 exclusive list of the grounds upon which the  
35 commissioner may find, for purposes of Section 18202,  
36 that an applicant, a director, officer, or controlling person  
37 of an applicant, or a director or officer of a controlling  
38 person of an applicant is not of good character.

39 18206. Whenever any application for a license has  
40 been approved by the commissioner and all conditions



1 precedent to the issuance of that license have been  
2 fulfilled, the commissioner shall issue the license to the  
3 applicant.

4 18207. No license shall be transferable or assignable.

5 18208. No licensee shall represent that it is sponsored,  
6 recommended, or approved, or that its abilities or  
7 qualifications have in any respect been passed upon, by  
8 the commissioner. However, this section shall not be  
9 deemed to prohibit a licensee from stating that it is  
10 licensed if the effect of that license is not misrepresented.

11 18209. Corporations subject to this division are not  
12 subject to the provisions or regulations of the California  
13 Finance Lenders Law, Division 9 (commencing with  
14 Section 22000) of the Financial Code with regard to the  
15 conduct of insurance premium finance business.

16 18210. (a) The fact that a California corporation is  
17 licensed under any law other than this division shall not  
18 preclude that corporation from applying for or being  
19 issued a license under this division unless the transaction  
20 of business by that corporation as a licensee under that  
21 other law would violate any provision of this division or  
22 of any regulation or order issued under this division or  
23 would be contrary to the purposes of this division.

24 (b) The fact that a California corporation is licensed  
25 under this division shall not preclude that corporation  
26 from applying for or being issued a license under any  
27 other law unless the transaction of business by that  
28 corporation as a licensee under that other law would  
29 violate any provision of this division or of any regulation  
30 or order issued under this division or would be contrary  
31 to the purposes of this division.

32  
33 CHAPTER 5. LICENSEES

34  
35 Article 1. General Provisions

36  
37 18300. Each licensee shall maintain adequate  
38 shareholders' equity and shall otherwise maintain itself in  
39 a safe and sound condition.



1 ~~18301. Each licensee shall transact its business in a safe~~  
2 ~~and sound manner.~~

3 ~~18302. No licensee shall commit any unsafe or~~  
4 ~~unsound act.~~

5 ~~18303. Unless a licensee has received written~~  
6 ~~authorization from the commissioner allowing the~~  
7 ~~licensee to conduct insurance premium finance business~~  
8 ~~under a fictitious name, no licensee shall conduct~~  
9 ~~insurance premium finance business under any name~~  
10 ~~other than that set forth in its articles.~~

11 ~~18304. The provisions of Sections 18322, 18360, and~~  
12 ~~18361 shall not apply to any loan with a principal amount~~  
13 ~~of two thousand five hundred dollars (\$2,500) or more, or~~  
14 ~~to a licensee in connection with those loans, if the~~  
15 ~~provisions of this section are not used for the purpose of~~  
16 ~~evading this division.~~

17

18 ~~Article 2. Premium Finance Agreements~~

19

20 ~~18320. A premium finance agreement shall be in~~  
21 ~~writing and the printed portion thereof shall be in at least~~  
22 ~~eight point type. The agreement shall set forth all of the~~  
23 ~~following:~~

24 ~~(a) The names and addresses of the insured and the~~  
25 ~~licensee, and the date of the agreement.~~

26 ~~(b) A description of the insurance contracts for which~~  
27 ~~the premiums are advanced, including the total amount~~  
28 ~~of the premiums and fees, a specific breakdown by~~  
29 ~~policies, and a general description of coverages.~~

30 ~~(c) The amount of the downpayment.~~

31 ~~(d) The cost, if any, for credit life insurance.~~

32 ~~(e) The principal balance.~~

33 ~~(f) The finance charges.~~

34 ~~(g) The unpaid balance.~~

35 ~~(h) The due date of the first installment.~~

36 ~~(i) The number, amount, and frequency of payment of~~  
37 ~~the installments.~~

38 ~~(j) A statement that the insured may prepay the full~~  
39 ~~amount due and receive a refund credit of the unearned~~  
40 ~~finance charge, in the manner provided by Section 18364.~~



1 ~~18321. A premium finance agreement shall not be~~  
2 ~~executed by or on behalf of the insured when it contains~~  
3 ~~any blank space to be filled in thereafter; however, if any~~  
4 ~~insurance contract, premiums for which are advanced or~~  
5 ~~to be advanced under the agreement, has not been issued~~  
6 ~~at the time of execution and the premium finance~~  
7 ~~agreement so provides, the name of the insurer, the~~  
8 ~~policy number and the due date of the first installment~~  
9 ~~may be left blank and inserted later. In connection with~~  
10 ~~the financing of an additional premium or policies, upon~~  
11 ~~the completion of the computations necessary to~~  
12 ~~determine the amount of the revised unpaid balance and~~  
13 ~~the number and amount of future installment payments,~~  
14 ~~the licensee shall mail notice of the changes to the insured~~  
15 ~~at his or her address shown in the agreement. The notice~~  
16 ~~of the revised finance agreement shall set forth all of the~~  
17 ~~following:~~

- 18 ~~(a) The unpaid balance, as adjusted.~~
- 19 ~~(b) The number and frequency of each installment~~  
20 ~~under the revised finance agreement.~~
- 21 ~~(c) The amount of each installment.~~
- 22 ~~(d) A statement to the insured that he or she may~~  
23 ~~disaffirm the revised finance agreement by mailing, to~~  
24 ~~the licensee's office, notice of his or her intention to do so~~  
25 ~~within 10 days of the licensee's mailing of the notice of the~~  
26 ~~revised finance agreement.~~
- 27 ~~(e) A statement to the insured that the licensee may,~~  
28 ~~in the event he or she disaffirms, cancel his or her~~  
29 ~~insurance contract or contracts as provided in Section~~  
30 ~~18323, except that the 10-day period required by that~~  
31 ~~section shall be deemed to commence with the mailing~~  
32 ~~of the notice of the revised finance agreement.~~

33 ~~18322. Upon receipt of a loan form, the licensee shall~~  
34 ~~promptly mail to the insured at the address shown in the~~  
35 ~~agreement, or deliver to the insured personally, either a~~  
36 ~~notice to the effect that the application for a loan is~~  
37 ~~rejected or a copy of the agreement, thereby signifying~~  
38 ~~acceptance by the licensee, or if the agreement contained~~  
39 ~~any blank space when it was executed by or on behalf of~~  
40 ~~the insured and that blank space was subsequently filled~~



1 in, a copy of the agreement as so filled in and the insured  
2 shall in that event have 10 days in which to disaffirm his  
3 or her obligation under the premium finance agreement  
4 by giving written notice thereof to the producer and the  
5 licensee. In the event the agreement is not disaffirmed by  
6 the insured, the agreement shall be as binding an  
7 obligation of the insured as if the agreement were  
8 complete on its face when it was executed.

9 18323. (a) A premium finance agreement may  
10 contain a power of attorney or other authority enabling  
11 the licensee to cancel the insurance contract or contracts  
12 listed in the agreement in the event of default in the  
13 terms thereof.

14 (b) Upon the exercise of that right to cancel, the  
15 licensee shall mail to the insured, to his or her last known  
16 address or to the address shown on the premium finance  
17 agreement at least 10 days prior to cancellation, a notice  
18 of its intent to cancel the insurance contract or contracts.

19 (c) The liability of a licensee to any person or  
20 corporation upon the exercise of that right or authority of  
21 cancellation shall be limited to the amount of the  
22 principal balance, except in the event of willful failure by  
23 the licensee to mail the notice required by this section.

24 18324. All statutory, regulatory, and contractual  
25 restrictions providing that the insured or the insurer shall  
26 not cancel the insurance contract unless the insured or  
27 the insurer first satisfies those restrictions by giving a  
28 prescribed notice of cancellation to a governmental  
29 agency, the insurer, the insured, the holder of a security  
30 interest in the subject of the insurance, or other  
31 prescribed party, shall not be affected by the provisions  
32 of this division. However, any cancellation notice period  
33 required by a statutory, regulatory, or contractual  
34 restriction shall not be cumulative to the period required  
35 by Section 18321 or 18323. If cancellation of the insurance  
36 contract is initiated by the licensee under the terms of this  
37 division, the insurer shall, in accordance with the  
38 requirement for a prescribed notice, on behalf of itself or  
39 the insured, give notice to the governmental agency, the  
40 holder of a security interest in the subject of the



1 ~~insuranc~~, or other prescribed party; and the insurer shall  
2 determine and calculate the effective date of cancellation  
3 (in accordance with the terms of that prescribed notice)  
4 from the date it receives the notice of request for  
5 cancellation from the licensee. In no instance shall the  
6 effective date of cancellation be prior to that established  
7 by the licensee.

8 18325. The insurer, within a reasonable time after the  
9 effective date of cancellation, shall return whatever gross  
10 unearned premiums or accrued dividends are payable  
11 under the insurance contract to the licensee that  
12 financed the insurance contract for the benefit of the  
13 insured. Whenever any funds are received by the licensee  
14 that are in excess of the amount due to the licensee, that  
15 excess shall be remitted promptly to the insured or to his  
16 or her order or to the insurance agent for the account of  
17 the insured.

18 18326. At the time of mailing the notice required by  
19 Section 18321 or 18323, the employee of the licensee who  
20 is doing the mailing shall prepare and sign an affidavit  
21 setting forth all of the following:

22 (a) The name and address of the employee doing the  
23 mailing.

24 (b) That the employee is over 18 years of age.

25 (c) The date and place of deposit in the mail.

26 (d) The addressee's name and address as shown on the  
27 envelope mailed.

28 (e) That the envelope was sealed and deposited in the  
29 mail with the postage thereon fully paid.

30 An affidavit of mailing, prepared as prescribed in this  
31 section, shall raise a rebuttable presumption that the  
32 notice was mailed to the addressee stated in the affidavit.

33 18327. A premium finance agreement may be  
34 prepared in the office of an insurer or producer and  
35 mailed or otherwise delivered to a licensee for  
36 acceptance. A producer at whose office a premium  
37 finance agreement is so prepared shall not be considered  
38 to be a broker of the licensee as that term is used in this  
39 division.



1 ~~18328. (a) Unless the insured has notice of the~~  
2 ~~assignment of a premium finance agreement, payment~~  
3 ~~thereunder by him or her to the last known assignee of~~  
4 ~~the agreement shall be binding upon all subsequent~~  
5 ~~assignees.~~

6 ~~(b) Assignment of the premium finance agreement~~  
7 ~~shall not cut off any defenses that the insured would have~~  
8 ~~against the licensee or an assignee of the agreement~~  
9 ~~arising from obligations imposed by this division.~~

10 ~~(c) The obligations and rights of a licensee under this~~  
11 ~~chapter shall also apply to the assignee of a premium~~  
12 ~~finance agreement.~~

13 ~~18329. At any time during the term of the premium~~  
14 ~~finance agreement, but not later than one year after the~~  
15 ~~last payment thereunder, the licensee shall, upon written~~  
16 ~~request of the insured, give or mail to him or her a written~~  
17 ~~statement of the dates and amounts of payment, and the~~  
18 ~~total amount, if any, unpaid thereunder. That statement~~  
19 ~~shall be supplied once each year without charge; if any~~  
20 ~~additional statement is requested, the licensee shall~~  
21 ~~supply that statement at a charge not exceeding one~~  
22 ~~dollar (\$1) for each additional statement so supplied.~~

23 ~~18330. Upon payment of a loan in full the licensee~~  
24 ~~upon request shall return the premium finance~~  
25 ~~agreement marked "Paid" to the insured.~~

26 ~~18331. Notwithstanding any other state law, no filing~~  
27 ~~of the premium finance agreement shall be necessary to~~  
28 ~~perfect the validity of those agreements as a secured~~  
29 ~~transaction as against creditors, subsequent purchasers,~~  
30 ~~pledgees, encumbrances, successors, or assigns of the~~  
31 ~~insured.~~

32 ~~18332. Any downpayment made and received by the~~  
33 ~~licensee from the insured, or from the insurer or producer~~  
34 ~~on behalf of the insured, shall be held by the licensee in~~  
35 ~~trust for and in transit to the insurer or producer, and shall~~  
36 ~~be paid to the insurer or producer, together with the~~  
37 ~~balance of the premium payable pursuant to the terms of~~  
38 ~~the premium finance agreement within 30 days from the~~  
39 ~~effective date of the policy, or within 30 days after the~~  
40 ~~receipt of a proper premium finance agreement by the~~



1 licensee, or within 15 days after the licensee has mailed  
2 to the insured notice of a revised finance agreement  
3 pursuant to Section 18321, whichever is later. In the event  
4 that the premium is paid to the insurance agent or broker  
5 of record, that agent or broker of record shall not be  
6 deemed the agent of the licensee by reason of that  
7 payment. Upon request of the commissioner, the licensee  
8 shall furnish an authorization for disclosure to the  
9 commissioner of financial records of trust accounts  
10 pursuant to Section 7473 of the Government Code.

11 18333. The downpayments received by the licensee  
12 under the provisions of Section 18332 may be held by the  
13 licensee in trust in a separate bank account or depository,  
14 or in lieu thereof, the licensee may maintain a time  
15 deposit with a bank, savings association, or comparable  
16 institution, or obtain a certificate or certificates of deposit  
17 or a clean and irrevocable letter or letters of credit from  
18 a bank, in an amount at least equal to the average amount  
19 of those downpayments being held at any given time by  
20 the licensee as ascertained by the commissioner, and  
21 payable to the insurer pursuant to the terms of the  
22 premium finance agreement. Those deposits, certificates,  
23 or a clean and irrevocable letter or letters of credit shall  
24 be held in trust for the benefit of the insureds, as their  
25 relative interests in those downpayments may exist at any  
26 given time, and in the event of the insolvency of a  
27 licensee, those funds on deposit under the provisions of  
28 this section or as represented by a certificate or  
29 certificates of deposit or a clean and irrevocable letter or  
30 letters of credit shall be first applied to remitting the  
31 amount of the downpayment to the insureds on all  
32 premium finance agreements upon which the licensee  
33 has not then forwarded in full the downpayments  
34 collected from and then being held for insureds, and, if  
35 insufficient to pay all those amounts in full, then those  
36 funds shall be applied for those purposes pro rata.

37



Article 3. Finance Charges

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~~18360. A licensee shall not, except as otherwise provided by law, impose, take, receive, reserve or charge a finance charge that, in the aggregate, is greater than that which is permitted by this article.~~

~~18361. (a) A licensee may, in a premium finance agreement, contract for, charge, receive, and collect a finance charge that shall not exceed in the aggregate:~~

~~(1) Two percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of, one thousand dollars (\$1,000).~~

~~(2) One percent per month on any remainder of any unpaid principal balance in excess of one thousand dollars (\$1,000).~~

~~(b) As an alternative to the charges authorized by subdivision (a), a licensee may contract for and receive charges at a rate not exceeding 1.6 percent per month on the unpaid principal balance.~~

~~18362. If the finance charge computed under Section 18361 is less than twenty five dollars (\$25), a minimum finance charge of twenty five dollars (\$25) may be imposed.~~

~~18363. (a) The finance charge computed under Section 18361 may be computed from the effective date of the insurance coverage, provided that the licensee shall pay the premium due the insurer by the latest of the following dates:~~

~~(1) Within 30 days from the effective date of the insurance coverage.~~

~~(2) Within 30 days after the receipt by the licensee of a premium finance agreement.~~

~~(3) Within 15 days after the licensee has mailed to the insured, notice of a revised finance agreement pursuant to Section 18321, whichever is later.~~

~~(b) If the licensee does not comply with the provisions of subdivision (a), the finance charge shall be computed from the date the proceeds of the loan are forwarded to the insurer. In the event the licensee receives a premium finance agreement later than 60 days from the effective~~



1 ~~date of the policy financed, a proportioned adjustment of~~  
2 ~~the finance charge shall be made after that 60-day period.~~

3 ~~18364. Notwithstanding the provisions of any~~  
4 ~~premium finance agreement to the contrary, any insured~~  
5 ~~may pay the obligation in full at any time before maturity~~  
6 ~~of the final installment. If he does so, he shall receive a~~  
7 ~~refund credit of the unearned finance charge computed~~  
8 ~~in accordance with Section 18380 or 18382, except where~~  
9 ~~the amount of the refund credit is less than one dollar (\$1)~~  
10 ~~no refund need be made, and except that, where the~~  
11 ~~earned finance charge amounts to less than the minimum~~  
12 ~~finance charge permitted by Section 18362, the licensee~~  
13 ~~may retain as an earned finance charge a sum equal to the~~  
14 ~~minimum permitted by Section 18362 or the maximum~~  
15 ~~prescribed by Section 18362, whichever is applicable.~~

16 ~~18365. In the event that the insurance policy or~~  
17 ~~policies that are the subject of a premium finance~~  
18 ~~agreement are canceled by the insured or by the insurer,~~  
19 ~~for any cause, the insured shall be entitled to receive a~~  
20 ~~refund credit of the unearned finance charge. This~~  
21 ~~refund credit shall be calculated in the same manner as~~  
22 ~~prescribed in Section 18364 and shall be paid to the~~  
23 ~~insured within a reasonable time.~~

24 ~~18366. (a) A premium finance agreement may~~  
25 ~~provide for the payment of a default charge of one dollar~~  
26 ~~(\$1) to a maximum of 5 percent of the delinquent~~  
27 ~~installment, in the event of a default for a period of not~~  
28 ~~less than 10 days in the payment of any scheduled~~  
29 ~~installment under the terms of a premium finance~~  
30 ~~agreement. That charge may not be collected more than~~  
31 ~~once for the same default and may be collected at the~~  
32 ~~time of that default or at any time thereafter. If that~~  
33 ~~default charge is deducted from any payment received~~  
34 ~~after default occurs, and that deduction results in the~~  
35 ~~default of a subsequent installment, no charge may be~~  
36 ~~made for the resulting default.~~

37 ~~(b) A premium finance agreement may provide for~~  
38 ~~the payment of a dishonored check fee not to exceed five~~  
39 ~~dollars (\$5) for actual expenses incurred in the processing~~  
40 ~~of a dishonored check.~~



1 Article 4. ~~Charges on Scheduled Balances~~

2  
3 ~~18380. Whenever the interest or charges, or interest~~  
4 ~~and charges deducted in advance, exceed the maximum~~  
5 ~~provided by this division, by reason of subsequent~~  
6 ~~repayment of the loan, a new loan, refinancing, or~~  
7 ~~otherwise, or any portion thereof prior to maturity, that~~  
8 ~~excess shall be rebated to the insured or credited on any~~  
9 ~~balance owing by the insured to the licensee. The rebate~~  
10 ~~shall be the difference between the total of the~~  
11 ~~precomputed charge, any charge for extending the first~~  
12 ~~due date, plus any default or deferment charges and the~~  
13 ~~charges at the contract rate computed on unpaid~~  
14 ~~principal balances for the number of days actually elapsed~~  
15 ~~by applying each payment first to charges and the~~  
16 ~~remainder to principal. The tender, by the insured or at~~  
17 ~~his request, of an amount equal to the unpaid balance less~~  
18 ~~the required rebate shall be accepted by the licensee in~~  
19 ~~full payment of the loan contract.~~

20 ~~18381. (a) Notwithstanding Section 18380, if a loan is~~  
21 ~~repayable in substantially equal and consecutive monthly~~  
22 ~~installments of principal and charges combined, the first~~  
23 ~~of which is due not less than 15 days nor more than one~~  
24 ~~month and 15 days from the date the loan is made, a~~  
25 ~~licensee may precompute charges and apply payments as~~  
26 ~~provided in this article.~~

27 ~~(b) The total charges that would be earned if the~~  
28 ~~contract were repaid exactly according to its terms, at the~~  
29 ~~monthly rate stated in the contract, may be precomputed~~  
30 ~~when the loan is made and added to the principal of the~~  
31 ~~loan. Every payment may be applied to the combined~~  
32 ~~total of principal and precomputed charges until the~~  
33 ~~contract is fully paid.~~

34 ~~(c) The portion of the precomputed charge applicable~~  
35 ~~to any particular monthly installment period shall bear~~  
36 ~~the same ratio to the total precomputed charge,~~  
37 ~~excluding any adjustment made for a first period of more~~  
38 ~~or less than one month, as the balance scheduled to be~~  
39 ~~outstanding during that monthly period bears to the sum~~



1 of all monthly balances scheduled originally by the  
2 contract.

3 18382. If a contract made under Section 18381 is  
4 prepaid in full by cash, a new loan, refinancing or  
5 otherwise before the final installment date, the insured  
6 shall receive a rebate of the portion of the precomputed  
7 charge applicable to the full installment periods following  
8 the installment date nearest the date of that prepayment;  
9 provided, however, that if prepayment in full occurs on  
10 or before the third installment date the rebate shall be the  
11 difference between the total precomputed charge and  
12 the charges at the contract rate computed on unpaid  
13 principal balances by applying each payment first to  
14 charges and the remainder to principal. After the third  
15 installment date, any prepayment made on or before the  
16 15th day following an installment date shall be deemed to  
17 have been made on the installment date preceding that  
18 prepayment. The tender, by the insured or at his request,  
19 of an amount equal to the unpaid balance less the  
20 required rebate shall be accepted by the licensee in full  
21 payment of the contract.

22 18383. A special rebate of precomputed charges shall  
23 be made if three or more, but not all, installments are  
24 prepaid in full at any one time either in one transaction  
25 or over a period of time on a contract made under Section  
26 18381. The special rebate shall be equal to the portion of  
27 precomputed charge applicable to the last installment  
28 period multiplied by the total number of full installment  
29 periods those installments and any subsequent  
30 installments are prepaid. That special rebate shall be  
31 computed and made at the termination of the contract  
32 and shall be an addition to any required rebate for  
33 prepayment in full.

34 18384. A deferment charge may be charged and  
35 collected on a contract made under Section 18381 if the  
36 payment date of all wholly unpaid installments on which  
37 no default charge has been collected is deferred one or  
38 more full months, and the contract so provides. That  
39 deferment charge shall not exceed the portion of  
40 precomputed charge applicable, prior to deferment, to



1 the first deferred monthly installment period multiplied  
2 by the number of months the maturity of the contract is  
3 deferred. That number of months shall not exceed the  
4 number of full installments that are in default on the date  
5 of deferment or that may become due within 15 days of  
6 that date. When a deferment charge is made, no portion  
7 of the precomputed charge shall apply to the installment  
8 periods in which no installment payment is required by  
9 reason of the deferment. In computing any default  
10 charge or required rebate, the portion of the  
11 precomputed charge applicable to each deferred balance  
12 and installment period following the deferment period  
13 and prior to the deferred maturity shall remain the same  
14 as that applicable to those balances and periods under the  
15 original contract. That charge may be collected at the  
16 time of deferment or at any time thereafter. Any  
17 payment received at the time of deferment may be  
18 applied first to the deferment charge and the remainder,  
19 if any, applied to the unpaid balance of the contract;  
20 provided, however, if that payment is sufficient to pay, in  
21 addition to the appropriate deferment charge, any  
22 installment that is in default and the applicable default  
23 charge, it shall be first so applied and that installment  
24 shall not be deferred nor subject to the deferment charge.

25 18385. If the maturity of a loan made under Section  
26 18636 is accelerated for any reason, the licensee shall  
27 make the same refund or credit as would be required if  
28 the contract was paid in full on the date of acceleration;  
29 and the unpaid balance shall be treated as the unpaid  
30 principal balance, and thereafter the unpaid balance of  
31 the contract shall bear charges at the agreed rate of  
32 charge if the contract so provides.

33 18386. Notwithstanding any other provision of law,  
34 with respect to precomputed loans, licensees derive  
35 authority only from this article.

36

#### 37 CHAPTER 6. RECORDS, REPORTS, AND EXAMINATIONS

38

39 18400. (a) A licensee shall make and keep books,  
40 accounts, and other records of the kind, in the form, and



1 in the manner, that the commissioner may by regulation  
2 or order specify.

3 (b) All records required under subdivision (a) or  
4 under any regulation or order issued under subdivision  
5 (a) shall be kept at the place, and shall be preserved for  
6 at least the time, that the commissioner may by  
7 regulation or order specify.

8 18401. Each licensee shall, not more than 90 days after  
9 the close of each of its fiscal years or within any longer  
10 period as the commissioner may by regulation or order  
11 specify, file with the commissioner a report containing:

12 (a) Financial statements, including balance sheet,  
13 statement of income or loss, statement of changes in  
14 shareholder equity, and statement of cash flows, for or as  
15 of the end of the fiscal year, prepared with audit by an  
16 independent certified public accountant or an  
17 independent public accountant in accordance with  
18 generally accepted accounting principles.

19 (b) Report, certificate, or opinion of that independent  
20 certified public accountant or independent public  
21 accountant, stating that the financial statements were  
22 prepared in accordance with generally accepted  
23 accounting principles.

24 (c) A list of all offices from which the licensee conducts  
25 its business.

26 (d) Other information that the commissioner may by  
27 regulation or order require.

28 18402. (a) Each licensee shall file with the  
29 commissioner reports as and when the commissioner may  
30 by regulation or order require.

31 (b) (1) Whenever the commissioner suspects that a  
32 licensee has violated, or is about to violate, any provision  
33 of this division or of any regulation or order issued under  
34 this division, the commissioner may by order require any  
35 director, officer, or employee of that licensee to file with  
36 the commissioner at the time specified in that order a  
37 report regarding the suspected violation and any related  
38 matters.

39 (2) Each director, officer, and employee of a licensee  
40 to whom an order is issued under paragraph (1) of this



1 ~~subdivision shall, and that licensee shall use its best efforts~~  
2 ~~to require the director, officer, and employee to, comply~~  
3 ~~with the order.~~

4 ~~18403. (a) The commissioner shall examine each~~  
5 ~~licensee not less frequently than once every two calendar~~  
6 ~~years.~~

7 ~~(b) (1) The commissioner may at any time examine~~  
8 ~~any licensee or any parent or subsidiary of a licensee.~~

9 ~~(2) The commissioner may at any time examine any~~  
10 ~~affiliate of a licensee (other than a parent or subsidiary of~~  
11 ~~the licensee) but only with respect to matters relating to~~  
12 ~~transactions between the affiliate and the licensee.~~

13 ~~(c) The directors, officers, and employees of any~~  
14 ~~licensee or of any affiliate of a licensee being examined by~~  
15 ~~the commissioner and any other person having custody of~~  
16 ~~any of the books, accounts, or records of that licensee or~~  
17 ~~of that affiliate shall exhibit to the commissioner, on~~  
18 ~~request, any or all of the books, accounts, and other~~  
19 ~~records of that licensee or of that affiliate and shall~~  
20 ~~otherwise facilitate that examination so far as it may be in~~  
21 ~~their power to do so. However, in the case of an~~  
22 ~~examination of an affiliate of a licensee other than a~~  
23 ~~parent or subsidiary of the licensee, only books, accounts,~~  
24 ~~and records of the affiliate that relate to transactions~~  
25 ~~between the affiliate and the licensee shall be subject to~~  
26 ~~this subdivision.~~

27 ~~(d) The commissioner may, if in his or her opinion it~~  
28 ~~is necessary in the examination of any licensee or of any~~  
29 ~~affiliate of a licensee, retain any certified public~~  
30 ~~accountant, attorney, appraiser, or other person to assist~~  
31 ~~him or her, and that licensee shall pay, within 10 days after~~  
32 ~~receipt of a statement from the commissioner, the fees of~~  
33 ~~that person.~~

34 ~~18404. (a) No licensee shall, except with the prior~~  
35 ~~approval of the commissioner, cause or permit any other~~  
36 ~~person to make or keep any of its books, accounts, or other~~  
37 ~~records.~~

38 ~~(b) In case any person other than a licensee makes or~~  
39 ~~keeps any of the books, accounts, or other records of that~~  
40 ~~licensee, the provisions of this division and of any~~



1 ~~regulation or order issued under this division shall apply~~  
2 ~~to that person with respect to the performance of those~~  
3 ~~services and with respect to those books, accounts, and~~  
4 ~~other records to the same extent as if that person were the~~  
5 ~~licensee.~~

6 ~~(e) In case any person other than an affiliate of a~~  
7 ~~licensee makes or keeps any of the books, accounts, or~~  
8 ~~other records of that affiliate or, in the case of an affiliate~~  
9 ~~other than a parent or subsidiary of the licensee, the~~  
10 ~~books, accounts, and other records of the affiliate that~~  
11 ~~relate to transactions between the affiliate and the~~  
12 ~~licensee, the provisions of this division and of any~~  
13 ~~regulation or order issued under this division shall apply~~  
14 ~~to that person with respect to those books, accounts, and~~  
15 ~~other records to the same extent as if that person were the~~  
16 ~~affiliate.~~

17  
18 CHAPTER 7. ACQUISITION OF CONTROL

19  
20 ~~18500. No person shall, except with the prior approval~~  
21 ~~of the commissioner, acquire control of a licensee or~~  
22 ~~controlling person.~~

23 ~~18501. An application for approval to acquire control~~  
24 ~~of a licensee or a controlling person shall be in the form~~  
25 ~~and contain the information that the commissioner may~~  
26 ~~require by regulation or order.~~

27 ~~18502. The commissioner shall approve the~~  
28 ~~application if the commissioner finds, with respect to an~~  
29 ~~application for approval to acquire control of a licensee:~~

30 ~~(a) The applicant and the directors and officers of the~~  
31 ~~applicant are of good character and sound financial~~  
32 ~~standing.~~

33 ~~(b) It is reasonable to believe that, if the applicant~~  
34 ~~acquires control of the licensee, the applicant will comply~~  
35 ~~with all applicable provisions of this division and of any~~  
36 ~~regulation or order issued under this division.~~

37 ~~(c) The applicant's plans, if any, to make any major~~  
38 ~~change in the business, corporate structure, or~~  
39 ~~management of the licensee are not detrimental to the~~



1 safety and soundness of the licensee or to the public  
2 convenience and advantage.

3 If, after notice and a hearing, the commissioner finds  
4 otherwise, he or she shall deny the application.

5 18503. (a) For purposes of Section 18501, the  
6 commissioner may find:

7 (1) An applicant or a director or officer of an applicant  
8 is not of good character if that person has been convicted  
9 of, or has pleaded nolo contendere to, a crime involving  
10 fraud or dishonesty.

11 (2) An applicant's plan to make a major change in the  
12 management of a licensee is detrimental to the safety and  
13 soundness of the licensee and to the public convenience  
14 and advantage if the plan provides for a person who has  
15 been convicted of, or has pleaded nolo contendere to, a  
16 crime involving fraud or dishonesty to become a director  
17 or officer of the licensee.

18 (b) Subdivision (a) shall not be deemed to be the only  
19 grounds upon which the commissioner may find, for  
20 purposes of Section 18503, that an applicant or a director  
21 or officer of an applicant is not of good character or that  
22 an applicant's plan to make a major change in the  
23 management of a licensee is detrimental to the safety and  
24 soundness of a licensee or to the public convenience and  
25 advantage.

26 18504. The commissioner may, by any regulations or  
27 orders as he or she deems necessary and appropriate,  
28 either unconditionally or upon specified terms and  
29 conditions or for specified periods, exempt from the  
30 provisions of this chapter any person or transaction or  
31 class of persons or transactions, if he or she finds that  
32 action to be in the public interest and that the regulation  
33 of those persons or transactions is not necessary for the  
34 purposes of this division.

35

36 CHAPTER 8. MERGER AND PURCHASE OR SALE OF  
37 BUSINESS

38

39 18600. In this chapter:

40 (a) "Acquiring licensee" means:



1 ~~(1) In the case of a merger, the licensee that is the~~  
2 ~~surviving corporation.~~

3 ~~(2) In the case of a purchase or sale, the licensee that~~  
4 ~~is the purchaser.~~

5 ~~(b) “Disappearing corporation” has the meaning set~~  
6 ~~forth in Section 165 of the Corporations Code.~~

7 ~~(c) “Surviving corporation” has the meaning set forth~~  
8 ~~in Section 190 of the Corporations Code.~~

9 ~~18601. No licensee shall merge with any other~~  
10 ~~corporation unless:~~

11 ~~(a) In case that licensee is the surviving corporation,~~  
12 ~~the merger shall have first been approved by the~~  
13 ~~commissioner.~~

14 ~~(b) In case that licensee is a disappearing corporation,~~  
15 ~~the surviving corporation is a licensee and the merger~~  
16 ~~shall have first been approved by the commissioner.~~

17 ~~18602. No licensee shall purchase all or substantially~~  
18 ~~all of the business of any other person unless that purchase~~  
19 ~~shall have first been approved by the commissioner.~~

20 ~~18603. No licensee shall sell all or substantially all of its~~  
21 ~~business to any other person unless that other person is a~~  
22 ~~licensee and that sale shall have first been approved by~~  
23 ~~the commissioner.~~

24 ~~18604. An application for approval of any of the~~  
25 ~~following shall be in the form and contain the information~~  
26 ~~that the commissioner may require by regulation or~~  
27 ~~order:~~

28 ~~(a) Merge with a licensee.~~

29 ~~(b) Purchase all or substantially all of the business of~~  
30 ~~another person.~~

31 ~~(c) Sell all or substantially all of the business of another~~  
32 ~~person.~~

33 ~~18605. The commissioner shall approve the~~  
34 ~~application if the commissioner finds, with respect to an~~  
35 ~~application for approval of a merger, purchase, or sale:~~

36 ~~(a) The merger, purchase, or sale will be safe and~~  
37 ~~sound with respect to the acquiring licensee.~~

38 ~~(b) It is reasonable to believe that, upon~~  
39 ~~consummation of the merger, purchase, or sale, the~~  
40 ~~acquiring licensee will comply with all applicable~~



1 provisions of this division and of any regulation or order  
2 issued under this division.

3 (e) The merger, purchase, or sale will not be  
4 detrimental to the public convenience and advantage, or,  
5 if the merger, purchase, or sale would be detrimental to  
6 the public convenience and advantage, it is necessary in  
7 the interests of the safety and soundness of any of the  
8 parties to it.

9 If, after notice and a hearing, the commissioner finds  
10 otherwise, he or she shall deny the application.

11 18606. The commissioner may, by any regulations or  
12 orders that he or she deems necessary and appropriate,  
13 either unconditionally or upon specified terms and  
14 conditions or for specified periods, exempt from the  
15 provisions of this chapter any person or transaction or  
16 class of persons or transactions, if he or she finds that  
17 action to be in the public interest and that the regulation  
18 of those persons or transactions is not necessary for the  
19 purposes of this division.

20

21 CHAPTER 9. VOLUNTARY SURRENDER OF LICENSE

22

23 18650. An insurance premium finance corporation  
24 may surrender its license to engage in insurance  
25 premium finance business by filing the license and a  
26 report with the commissioner.

27 18651. (a) Except as otherwise provided in  
28 subdivision (b), a voluntary surrender of a license of an  
29 insurance premium finance corporation shall be effective  
30 on the 30th day after the license and the report called for  
31 in Section 18650 are filed with the commissioner or on any  
32 earlier date that the commissioner may by order specify.

33 (b) If a proceeding to impose conditions upon the  
34 surrender of a license is instituted before the 30th day  
35 after the license and the report called for in Section 18650  
36 are filed with the commissioner, the voluntary surrender  
37 of the license shall become effective at the time, and upon  
38 the conditions, that the commissioner may by order  
39 specify.

40



CHAPTER 10. ~~ENFORCEMENT~~

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~~18700. Unless the context otherwise requires in this chapter:~~

~~(a) "Office with a licensee" means the position of director, officer, employee, or agent of a licensee.~~

~~(b) "Subject person," when used with respect to a licensee, means:~~

~~(1) Any director, officer, employee, or agent of that licensee.~~

~~(2) Any other person who participates in the conduct of the business of that licensee.~~

~~18701. Any requirement in this chapter for notice or hearing before the commissioner issues an order may be waived by any person to whom the order is issued.~~

~~18702. (a) Whenever it appears to the commissioner that any person has violated, or that there is reasonable cause to believe that any person is about to violate, any provision of this division or of any regulation or order issued under this division, the commissioner may bring an action in the name of the people of this state in the superior court to enjoin the violation or to enforce compliance with this division or with any regulation or order issued under this division. Upon a proper showing, a restraining order, preliminary or permanent injunction, or writ of mandate shall be granted, and a receiver or conservator may be appointed for the defendant or the defendant's assets.~~

~~(b) Any receiver or conservator appointed by the court pursuant to subdivision (a) may, with the approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner or the receiver or conservator by reason of the exercise of powers or the performance of duties pursuant to the order, or with the approval of, the court.~~



1 ~~(c) The commissioner may include in any action~~  
2 ~~authorized under subdivision (a) a claim for ancillary~~  
3 ~~relief, including a claim for restitution or damages on~~  
4 ~~behalf of the persons injured by the act constituting the~~  
5 ~~subject matter of the action, and the court shall have~~  
6 ~~jurisdiction to award that additional relief.~~

7 ~~18703. (a) If the commissioner finds that any person~~  
8 ~~has violated, or that there is reasonable cause to believe~~  
9 ~~that any person is about to violate, Section 18200, the~~  
10 ~~commissioner may, without any prior notice or hearing,~~  
11 ~~order the person to cease and desist from the violation~~  
12 ~~unless and until the person is issued a license to engage~~  
13 ~~in insurance premium finance business.~~

14 ~~(b) (1) Within 30 days after an order is issued~~  
15 ~~pursuant to subdivision (a), the person to whom the order~~  
16 ~~is issued may file with the commissioner an application for~~  
17 ~~a hearing on the order. If the commissioner fails to~~  
18 ~~commence the hearing within 15 business days after the~~  
19 ~~application is filed with the commissioner or within any~~  
20 ~~longer period to which the person consents, the order~~  
21 ~~shall be deemed rescinded. Within 30 days after the~~  
22 ~~hearing or within any longer period to which the person~~  
23 ~~consents, the commissioner shall affirm, modify, or~~  
24 ~~rescind the order; otherwise, the order shall be deemed~~  
25 ~~rescinded.~~

26 ~~(2) The right of any person to whom an order is issued~~  
27 ~~under subdivision (a) to petition for judicial review of the~~  
28 ~~order shall not be affected by the failure of the person to~~  
29 ~~apply to the commissioner for a hearing on the order~~  
30 ~~pursuant to paragraph (1).~~

31 ~~18704. If, after notice and a hearing, the commissioner~~  
32 ~~finds any of the factors set forth in subdivision (a) or (b)~~  
33 ~~with respect to any licensee or subject person, the~~  
34 ~~commissioner may order the licensee or subject person to~~  
35 ~~cease and desist from the action or violation:~~

36 ~~(a) That the licensee or subject person has engaged or~~  
37 ~~participated, is engaging or participating, or that there is~~  
38 ~~reasonable cause to believe that the licensee or subject~~  
39 ~~person is about to engage or participate, in any unsafe or~~  
40 ~~unsound act with respect to the business of the licensee.~~



1 ~~(b) That the licensee or subject person has violated, is~~  
2 ~~violating, or that there is reasonable cause to believe that~~  
3 ~~the licensee or subject person is about to violate, any~~  
4 ~~provision of this division, any regulation or order issued~~  
5 ~~under this division, any other applicable law, or any~~  
6 ~~written agreement with the commissioner.~~

7 ~~18705. (a) If the commissioner finds that any of the~~  
8 ~~factors set forth in Section 18704 is true with respect to~~  
9 ~~any licensee or subject person and that the action or~~  
10 ~~violation is likely to have any of the consequences set~~  
11 ~~forth in paragraphs (1) to (4), inclusive, the~~  
12 ~~commissioner may, without any prior notice or hearing,~~  
13 ~~order the licensee or subject person to cease and desist~~  
14 ~~from the action or violation:~~

- 15 ~~(1) To cause the insolvency of the licensee.~~
- 16 ~~(2) To cause significant dissipation of the assets or~~  
17 ~~earnings of the licensee.~~
- 18 ~~(3) To weaken the condition of the licensee.~~
- 19 ~~(4) To otherwise prejudice the interests of the~~  
20 ~~shareholders of the licensee.~~

21 ~~(b) (1) Within 30 days after an order is issued~~  
22 ~~pursuant to subdivision (a), any licensee or subject~~  
23 ~~person to whom the order is issued may file with the~~  
24 ~~commissioner an application for a hearing on the order.~~  
25 ~~If the commissioner fails to commence the hearing within~~  
26 ~~15 business days after the application is filed with the~~  
27 ~~commissioner or within any longer period to which the~~  
28 ~~licensee or subject person consents, the order shall be~~  
29 ~~deemed rescinded. Within 30 days after the hearing or~~  
30 ~~within any longer period to which the licensee or subject~~  
31 ~~person consents, the commissioner shall affirm, modify,~~  
32 ~~or rescind the order; otherwise, the order shall be deemed~~  
33 ~~rescinded.~~

34 ~~(2) The right of any licensee or subject person to~~  
35 ~~whom an order is issued under subdivision (a) to petition~~  
36 ~~for judicial review of the order shall not be affected by the~~  
37 ~~failure of the licensee or subject person to apply to the~~  
38 ~~commissioner for a hearing on the order pursuant to~~  
39 ~~paragraph (1).~~



1 18706. ~~The commissioner may order the licensee to~~  
2 ~~suspend or remove the subject person from his or her~~  
3 ~~office, if any, with the licensee and to preclude that~~  
4 ~~person from further participating in any manner in the~~  
5 ~~conduct of the business of the licensee, except with the~~  
6 ~~prior consent of the commissioner if, after notice and a~~  
7 ~~hearing, the commissioner finds that:~~

8 (a) (1) ~~Any subject person of a licensee has engaged~~  
9 ~~or participated in any unsafe or unsound act with respect~~  
10 ~~to the business of that licensee.~~

11 (2) ~~Any subject person of a licensee has violated any~~  
12 ~~provision of this division or of any regulation or order~~  
13 ~~issued under this division or any provision of any other~~  
14 ~~applicable law relating to the business of that licensee.~~

15 (3) ~~Any subject person of a licensee has engaged or~~  
16 ~~participated in any act that constitutes a breach of his~~  
17 ~~fiduciary duty as a subject person.~~

18 (b) (1) ~~The act, violation, or breach of fiduciary duty~~  
19 ~~has caused or is likely to cause substantial financial loss or~~  
20 ~~other damage to the licensee.~~

21 (2) ~~The action, violation, or breach of fiduciary duty~~  
22 ~~has seriously prejudiced, or is likely to seriously prejudice,~~  
23 ~~the interests of purchasers or holders of payment~~  
24 ~~instruments issued by the licensee.~~

25 (3) ~~The subject person has received financial gain by~~  
26 ~~reason of such act, violation, or breach of fiduciary duty.~~

27 (c) ~~The act, violation, or breach of fiduciary duty~~  
28 ~~either involves dishonesty on the part of the subject~~  
29 ~~person or demonstrates the subject person's gross~~  
30 ~~negligence with respect to the business of the licensee or~~  
31 ~~a willful disregard for the safety and soundness of the~~  
32 ~~licensee.~~

33 18707. ~~The commissioner may order the licensee to~~  
34 ~~remove the subject person from his or her office, if any,~~  
35 ~~with the licensee and to preclude him or her from further~~  
36 ~~participating in any manner in the conduct of the~~  
37 ~~business of the licensee, except with the prior consent of~~  
38 ~~the commissioner if, after notice and a hearing, the~~  
39 ~~commissioner finds that the subject person of a licensee~~  
40 ~~has, by engaging or participating in any act with respect~~



1 ~~to any financial or other business institution that resulted~~  
2 ~~in financial loss or other damage, demonstrated:~~

3 ~~(a) (1) Dishonesty.~~

4 ~~(2) Gross negligence with respect to the operations of~~  
5 ~~that institution.~~

6 ~~(3) Willful disregard for the safety and soundness of~~  
7 ~~that institution.~~

8 ~~(b) Unfitness to continue as a subject person of that~~  
9 ~~licensee or participate in the conduct of the business of~~  
10 ~~that licensee.~~

11 ~~18708. (a) The commissioner may order a licensee to~~  
12 ~~suspend a subject person from his or her office, if any,~~  
13 ~~with the licensee and to preclude that person from~~  
14 ~~further participating in any manner in the conduct of the~~  
15 ~~business of the licensee, except with the prior consent of~~  
16 ~~the commissioner, if the commissioner finds that:~~

17 ~~(1) The subject person of a licensee has been charged~~  
18 ~~in an indictment issued by a grand jury or in an~~  
19 ~~information, complaint, or similar pleading issued by a~~  
20 ~~United States attorney, district attorney, or other~~  
21 ~~governmental official or agency authorized to prosecute~~  
22 ~~crimes, with a crime punishable by imprisonment for a~~  
23 ~~term exceeding one year that involves dishonesty or~~  
24 ~~breach of trust.~~

25 ~~(2) The subject person's continuing to serve as a~~  
26 ~~subject person of the licensee may pose a threat to the~~  
27 ~~interests of purchasers or holders of payment instruments~~  
28 ~~issued by the licensee or may threaten to impair public~~  
29 ~~confidence in the licensee.~~

30 ~~In case criminal proceedings are terminated other than~~  
31 ~~by a judgment of conviction, that order shall be deemed~~  
32 ~~rescinded.~~

33 ~~(b) The commissioner may order a licensee to suspend~~  
34 ~~or remove a subject person or former subject person from~~  
35 ~~his or her office, if any, with the licensee and to preclude~~  
36 ~~him or her from further participating in any manner in~~  
37 ~~the conduct of the business of the licensee, except with~~  
38 ~~the prior consent of the commissioner if the~~  
39 ~~commissioner finds that:~~



1 ~~(1) Any subject person or former subject person of a~~  
2 ~~licensee with respect to whom an order was issued~~  
3 ~~pursuant to subdivision (a) or any other subject person of~~  
4 ~~a licensee has been finally convicted of a crime~~  
5 ~~punishable by imprisonment for a term exceeding one~~  
6 ~~year that involves dishonesty or breach of trust.~~

7 ~~(2) The person's continuing to serve or resumption of~~  
8 ~~service as a subject person of the licensee may pose a~~  
9 ~~threat to the interests of purchasers or holders of payment~~  
10 ~~instruments issued by the licensee or may threaten to~~  
11 ~~impair confidence in the licensee.~~

12 ~~(e) (1) Within 30 days after an order is issued~~  
13 ~~pursuant to subdivision (a) or (b), any licensee to which~~  
14 ~~such order is issued or any subject person or former~~  
15 ~~subject person of a licensee with respect to whom such~~  
16 ~~order is issued may file with the commissioner an~~  
17 ~~application for a hearing on the order. If the~~  
18 ~~commissioner fails to commence the hearing within 15~~  
19 ~~business days after the application is filed with the~~  
20 ~~commissioner (or within any longer period to which the~~  
21 ~~licensee, subject person, or former subject person~~  
22 ~~consents), the order shall be deemed rescinded. Within~~  
23 ~~30 days after the hearing, the commissioner shall affirm,~~  
24 ~~modify, or rescind the order; otherwise, the order shall be~~  
25 ~~deemed rescinded.~~

26 ~~(2) The right of any licensee to which an order is issued~~  
27 ~~under subdivision (a) or (b) or of any subject person or~~  
28 ~~former subject person of a licensee with respect to whom~~  
29 ~~such an order is issued to petition for judicial review of~~  
30 ~~that order shall not be affected by the failure of that~~  
31 ~~person to apply to the commissioner for a hearing on the~~  
32 ~~order pursuant to paragraph (1) of this subdivision.~~

33 ~~(d) The fact that any subject person of a licensee~~  
34 ~~charged with a crime involving dishonesty or breach of~~  
35 ~~trust is not finally convicted of a crime shall not preclude~~  
36 ~~the commissioner from issuing an order regarding the~~  
37 ~~licensee or the subject person pursuant to any other~~  
38 ~~section of this division.~~

39 ~~18709. (a) Any licensee to which an order is issued~~  
40 ~~under Section 18706, 18707, or 18708 or any subject person~~



1 ~~or former subject person of a licensee with respect to~~  
2 ~~whom an order is issued may apply to the commissioner~~  
3 ~~to modify or rescind the order. The commissioner shall~~  
4 ~~not grant the application unless the commissioner finds~~  
5 ~~that it is in the public interest to do so and that it is~~  
6 ~~reasonable to believe that the subject person or former~~  
7 ~~subject person will, if and when he or she becomes a~~  
8 ~~subject person of a licensee, comply with all applicable~~  
9 ~~provisions of this division and of any regulation or order~~  
10 ~~issued under this division.~~

11 ~~(b) The right of any licensee to which an order is~~  
12 ~~issued under Section 18706, 18707, or 18708 or any subject~~  
13 ~~person or former subject person of a licensee with respect~~  
14 ~~to whom the order is issued to petition for judicial review~~  
15 ~~of the order shall not be affected by the failure of the~~  
16 ~~licensee, subject person, or former subject person to~~  
17 ~~apply to the commissioner pursuant to subdivision (a) to~~  
18 ~~modify or rescind the order.~~

19 ~~18710. The commissioner may issue an order~~  
20 ~~suspending or revoking the license of any licensee if, after~~  
21 ~~notice and a hearing, the commissioner finds that:~~

22 ~~(a) Any licensee has violated any provision of this~~  
23 ~~division or of any regulation or order issued under this~~  
24 ~~division or any provision of any other applicable law.~~

25 ~~(b) Any licensee is conducting its business in an unsafe~~  
26 ~~or unsound manner.~~

27 ~~(c) Any licensee is in a condition that it is unsafe or~~  
28 ~~unsound for it to transact the business of selling in this~~  
29 ~~state payment instruments issued by it.~~

30 ~~(d) Any licensee has ceased to transact the business of~~  
31 ~~selling in this state payment instruments issued by it.~~

32 ~~(e) Any licensee is insolvent.~~

33 ~~(f) Any licensee has suspended payment of its~~  
34 ~~obligations, has made an assignment for the benefit of its~~  
35 ~~creditors, or has admitted in writing its inability to pay its~~  
36 ~~debts as they become due.~~

37 ~~(g) Any licensee has applied for an adjudication of~~  
38 ~~bankruptcy, reorganization, arrangement, or other relief~~  
39 ~~under any bankruptcy, reorganization, insolvency, or~~  
40 ~~moratorium law, or that any person has applied for that~~



1 relief under any law against any licensee and that licensee  
2 has by any affirmative act approved of or consented to  
3 that action or that relief has been granted.

4 (h) Any fact or condition exists which, if it had existed  
5 at the time when any licensee applied for its license,  
6 would have been grounds for denying such application.

7 18711. (a) If the commissioner finds that any of the  
8 factors set forth in Section 18710 is true with respect to  
9 any licensee and that it is necessary for the protection of  
10 the interests of purchasers or holders of payment  
11 instruments issued by that licensee or for the protection  
12 of the public interest that he or she immediately suspend  
13 or revoke the license of that licensee, the commissioner  
14 may issue an order suspending or revoking the license of  
15 that licensee.

16 (b) (1) Within 30 days after an order is issued  
17 pursuant to subdivision (a), any licensee to whom that  
18 order is issued may file with the commissioner an  
19 application for a hearing on the order. If the  
20 commissioner fails to commence such hearing within 15  
21 business days after that application is filed with the  
22 commissioner (or within any longer period to which the  
23 licensee consents), the order shall be deemed rescinded.  
24 Within 30 days after the hearing, the commissioner shall  
25 affirm, modify, or rescind the order; otherwise, the order  
26 shall be deemed rescinded.

27 (2) The right of any licensee to which an order is issued  
28 under subdivision (a) to petition for judicial review of  
29 that order shall not be affected by the failure of that  
30 licensee to apply to the commissioner for a hearing on the  
31 order pursuant to paragraph (1) of this subdivision.

32 18712. Any person whose license is suspended or  
33 revoked shall immediately deliver that license to the  
34 commissioner.

35 18713. (a) Any person to whom an order is issued  
36 under Section 18710 or 18711 may apply to the  
37 commissioner to modify or rescind that order. The  
38 commissioner shall not grant the application unless he or  
39 she finds that it is in the public interest to do so and that  
40 it is reasonable to believe that the person will, if and when



1 ~~it becomes a licensee, comply with all applicable~~  
2 ~~provisions of this division and of any regulation or order~~  
3 ~~issued under this division.~~

4 (b) ~~The right of any person to whom an order is issued~~  
5 ~~under Section 18710 or 18711 to petition for judicial~~  
6 ~~review of that order shall not be affected by the failure of~~  
7 ~~that person to apply to the commissioner pursuant to~~  
8 ~~subdivision (a) to modify or rescind the order.~~

9

10 CHAPTER 11. ~~CRIMES AND CRIMINAL PENALTIES~~

11

12 18800. ~~Nothing in this division limits the power of the~~  
13 ~~state to punish any person for any act that constitutes a~~  
14 ~~crime under any statute.~~

15 18801. ~~Any person who willfully violates Section 18200~~  
16 ~~shall upon conviction be fined not more than ten~~  
17 ~~thousand dollars (\$10,000) or be imprisoned in the state~~  
18 ~~prison, or in a county jail for not more than one year, or~~  
19 ~~be punished by both fine and imprisonment.~~

20

21 CHAPTER 12. ~~CIVIL PENALTIES~~

22

23 18850. (a) ~~If, after notice and a hearing, the~~  
24 ~~commissioner finds that any person has violated any~~  
25 ~~provision of this division or any regulation or order issued~~  
26 ~~under this division, the commissioner may order the~~  
27 ~~person to pay to the commissioner a civil penalty in the~~  
28 ~~amount specified by the commissioner.~~

29 (b) ~~The notice and hearing called for in subdivision~~  
30 ~~(a) may be waived by the person charged with the~~  
31 ~~violation.~~

32 18851. (a) ~~Unless a different limit is specified~~  
33 ~~elsewhere in this division for the violation, the amount of~~  
34 ~~the civil penalty for a violation shall not exceed ten~~  
35 ~~thousand dollars (\$10,000) for each violation or, in the~~  
36 ~~case of a continuing violation, one thousand dollars~~  
37 ~~(\$1,000) for each day that the violation continues.~~

38 (b) ~~In determining the amount of the civil penalty for~~  
39 ~~a violation, the commissioner shall consider all of the~~  
40 ~~following:~~



1 ~~(1) The financial resources of the person charged with~~  
2 ~~the violation.~~

3 ~~(2) The good faith of the person charged with the~~  
4 ~~violation.~~

5 ~~(3) The gravity of the violation.~~

6 ~~(4) The history of previous violations by the person~~  
7 ~~charged with the violation.~~

8 ~~(5) Other matters as justice may require.~~

9 ~~18852. The provisions of Section 18850 are additional~~  
10 ~~to, and not alternative to, other provisions of this division~~  
11 ~~that authorize the commissioner to issue orders or to take~~  
12 ~~other action on account of a violation of any provision of~~  
13 ~~this division or of any regulation or order issued under this~~  
14 ~~division. However, no person who has been finally~~  
15 ~~convicted under Chapter 11 (commencing with Section~~  
16 ~~18800) of this division on account of any violation of~~  
17 ~~Section 18200 shall be liable to pay a civil penalty under~~  
18 ~~Section 18850 on account of that violation, nor shall any~~  
19 ~~person who has paid a civil penalty under Section 18850~~  
20 ~~on account of any violation of Section 18200 be liable to~~  
21 ~~criminal prosecution under Chapter 11 on account of that~~  
22 ~~violation.~~

23

24 ~~CHAPTER 13. TRANSITION PROVISIONS~~

25

26 ~~18900. In this article:~~

27 ~~(a) "Industrial Loan Law" means Division 7, as in~~  
28 ~~effect on December 31, 2000.~~

29 ~~(b) "Subject institution" means any corporation~~  
30 ~~incorporated under the laws of this state that is~~  
31 ~~authorized by the commissioner to engage in the~~  
32 ~~insurance premium finance business under the Industrial~~  
33 ~~Loan Law as of December 31, 2000.~~

34 ~~18901. (a) As of January 1, 2001, the articles of~~  
35 ~~incorporation of a subject institution shall be deemed to~~  
36 ~~be amended to comply with the requirements of clause~~  
37 ~~(i) of paragraph (1) of subdivision (b) of Section 202 of~~  
38 ~~the Corporations Code.~~

39 ~~(b) Notwithstanding Section 902 of the Corporations~~  
40 ~~Code, an amendment of the articles of a subject~~



1 ~~institution existing on January 1, 2001, that only effects a~~  
2 ~~change to comply with the requirements of clause (i) of~~  
3 ~~paragraph (1) of subdivision (b) of Section 202 of the~~  
4 ~~Corporations Code, may be adopted by approval of the~~  
5 ~~board alone. The amendment shall be filed by the~~  
6 ~~Secretary of State, provided the amendment otherwise~~  
7 ~~complies with applicable provisions of the Corporations~~  
8 ~~Code.~~

9 ~~SEC. 17.~~

10 *SEC. 15. Section 18003 of the Financial Code is*  
11 *amended to read:*

12 18003. “Industrial loan company,” “industrial bank,”  
13 “thrift and loan company,” or “company” *as used in this*  
14 *division means any corporation which in the regular*  
15 *course of business loans money and issues its own choses*  
16 *in action under the provisions of this division a premium*  
17 *finance agency as defined in Section 18560.*  
18 *Notwithstanding any other provision of this chapter,*  
19 *these terms and this division do not apply to an industrial*  
20 *bank subject to and governed by Chapter 11*  
21 *(commencing with Section 1400) of Division 1.*

22 *SEC. 16. This act shall be known and may be cited as*  
23 *the Industrial Banking Act of 2000.*

24 ~~SEC. 18. (a) The definitions contained in Chapter 1~~  
25 ~~(commencing with Section 18000) of Division 7 of the~~  
26 ~~Financial Code, as amended by this act, apply to this~~  
27 ~~section. In addition, in this section:~~

28 (1) “Office” means any office that an insurance  
29 premium finance corporation is authorized to transact  
30 insurance premium finance business is, as of December  
31 31, 2000, authorized to maintain as an office and where it,  
32 as of December 31, 2000, transacts insurance premium  
33 finance business.

34 (2) “Industrial Loan Law” means Division 7, as in  
35 effect on December 31, 2000.

36 (3) “Subject institution” means an industrial loan  
37 company licensed under the Industrial Loan Law to  
38 conduct business as an insurance premium finance  
39 agency.



1 ~~(b) (1) The commissioner shall, as of February 1, 2001,~~  
2 ~~issue to each subject institution that was authorized, as of~~  
3 ~~December 31, 2000, to transact insurance premium~~  
4 ~~finance business, a certificate of authority authorizing the~~  
5 ~~insurance premium finance corporation to engage in the~~  
6 ~~insurance premium finance business. Each certificate of~~  
7 ~~authority issued pursuant to this paragraph shall be~~  
8 ~~deemed to be issued pursuant to Section 18206 of the~~  
9 ~~Financial Code.~~

10 ~~(2) Each insurance premium finance corporation to~~  
11 ~~which the commissioner has issued a certificate of~~  
12 ~~authority pursuant to paragraph (1) of this subdivision~~  
13 ~~shall, promptly after February 1, 2001, surrender to the~~  
14 ~~commissioner for cancellation the certificate of authority~~  
15 ~~authorizing it to engage in business as an insurance~~  
16 ~~premium finance agency.~~

17 ~~(3) Each insurance premium finance corporation~~  
18 ~~shall, if applicable, promptly after February 1, 2001,~~  
19 ~~surrender to the commissioner for cancellation the~~  
20 ~~certificates of authority that authorized it to transact~~  
21 ~~insurance premium finance business at all offices,~~  
22 ~~designated branches, or other places of business, under~~  
23 ~~the Industrial Loan Law.~~

24 ~~SEC. 19.~~

25 *SEC. 17.* (a) The definitions contained in Chapter 1  
26 (commencing with Section 99) of Division 1 of the  
27 Financial Code, as amended by this act, apply to this  
28 section. In addition, in this section, “office” means any  
29 office that an industrial loan company is authorized to  
30 transact industrial loan business is, as of December 31,  
31 2000, authorized to maintain as an office and where it, as  
32 of December 31, 2000, transacts industrial banking  
33 business.

34 (b) (1) The commissioner shall, as of February 1, 2001,  
35 issue to each industrial bank that was authorized as of  
36 December 31, 2000, to transact industrial loan business a  
37 certificate of authority authorizing the industrial bank to  
38 engage in the industrial banking business. Each  
39 certificate of authority issued pursuant to this paragraph



1 shall be deemed to be issued pursuant to Section 401 of  
2 the Financial Code.

3 (2) Each industrial bank to which the commissioner  
4 has issued a certificate of authority pursuant to paragraph  
5 (1) of this subdivision shall, promptly after February 1,  
6 2001, surrender to the commissioner for cancellation the  
7 certificate of authority authorizing it to engage in the  
8 industrial loan business.

9 (c) (1) The commissioner shall, as of February 1, 2001,  
10 issue to each industrial bank authorized to transact  
11 industrial banking business that, as of December 31, 2000,  
12 was authorized to and did maintain an office, a certificate  
13 of authority authorizing the industrial bank to maintain  
14 a branch office at the site of the existing office. Each  
15 certificate of authority issued pursuant to this paragraph  
16 shall be deemed to be issued pursuant to Section 504 of  
17 the Financial Code.

18 (2) Each industrial bank authorized to maintain an  
19 office pursuant to paragraph (1) of this subdivision shall,  
20 if applicable, promptly after February 1, 2001, surrender  
21 to the commissioner for cancellation the certificate of  
22 authority that authorized it to transact industrial loan  
23 business at that location as a branch office.

24 ~~SEC. 20. No reimbursement is required by this act~~  
25 ~~pursuant to Section 6 of Article XIII B of the California~~  
26 ~~Constitution because the only costs that may be incurred~~  
27 ~~by a local agency or school district will be incurred~~  
28 ~~because this act creates a new crime or infraction,~~  
29 ~~eliminates a crime or infraction, or changes the penalty~~  
30 ~~for a crime or infraction, within the meaning of Section~~  
31 ~~17556 of the Government Code, or changes the definition~~  
32 ~~of a crime within the meaning of Section 6 of Article~~  
33 ~~XIII B of the California Constitution.~~

34 ~~SEC. 21.~~

35 *SEC. 18. Section 15 shall become operative on*  
36 *January 1, 2001.*

37 *SEC. 19.* This act is an urgency statute necessary for  
38 the immediate preservation of the public peace, health,  
39 or safety within the meaning of Article IV of the



1 Constitution and shall go into immediate effect. The facts  
2 constituting the necessity are:  
3 In order to provide for a more appropriate regulatory  
4 structure and comprehensive regulatory oversight at the  
5 earliest possible time, it is necessary that this act take  
6 effect immediately.

O

