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SB-363 Financial transactions: corporate entities, securities, loans, and deposits. (2017-2018)

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Senate Bill No. 363

CHAPTER 516

An act to amend Sections 5260, 9260, 23000, 25100, 25101.1, and 25302 of the Corporations Code, to amend Section 22050.5 of the Financial Code, and to amend Sections 16305.8 and 16522 of the Government Code, relating to financial transactions.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 363, Committee on Insurance, Banking and Financial Institutions. Financial transactions: corporate entities, securities, loans, and deposits.

(1) The Nonprofit Corporation Law requires every corporation, during any period that the corporation is considered to be a "private foundation" as defined by the Internal Revenue Code, to distribute its income for each taxable year so as not to subject it to specified taxes for failure to distribute income under federal law. Existing law also prohibits a corporation from engaging in any act of self-dealing, as defined under federal law, and from engaging in other specified activities including retaining excess business holdings and making certain taxable expenditures.

Existing law governing unincorporated associations defines "real estate investment trust" to mean any unincorporated association or trust formed to engage in business and that meets certain tests.

This bill would update references to the Internal Revenue Code contained in those provisions and would make other nonsubstantive changes.

(2) Existing law abolished the Department of Corporations, and also the office of Commissioner of Corporations, and transferred their powers, duties, responsibilities, and functions to the Department of Business Oversight and the Commissioner of Business Oversight.

This bill would make technical, nonsubstantive changes to update references from the abolished office to the successor Commissioner of Business Oversight.

(3) The Corporate Securities Law of 1968 regulates corporate securities in California. This law exempts certain types of securities from its provisions addressing unlawful sale of securities in an issuer transaction, an exchange of securities by the issuer with its existing security holders exclusively, an exchange in connection with a merger or consolidation or purchase of assets, an entity conversion transaction, or a nonissuer transaction, as specified. Among these exemptions is one for a security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company that is subject to the jurisdiction of the Interstate Commerce Commission or its successor, or a holding company registered with the Securities and Exchange Commission under the federal Public Utility Holding Company Act of 1935 or a subsidiary of that company within the meaning of that act.

The federal Interstate Commerce Commission Termination Act of 1995 abolished the Interstate Commerce Commission. The federal Public Utility Holding Company Act of 1935 was repealed by Congress in 2005.

This bill would delete these obsolete federal references from the above securities exemption for railroads, common carriers, public utilities, or public utility holding companies. The bill also would update related cross-references to federal securities law.

(4) The Corporate Securities Law of 1968 prohibits a person from publishing any advertisement concerning any security in this state after the commissioner finds that the advertisement contains any statement that is false, misleading, or omits necessary statements, as specified. This provision does not apply to any advertisement for a security that is subject to the supervision, regulation, or examination, of specified entities or officers, including the Office of Thrift Supervision. Under federal law, the Office of Thrift Supervision was an agency under the United States Department of the Treasury that regulated federally chartered and state-chartered savings banks and savings and loans that was dissolved in 2011.

This bill would delete that obsolete reference to the office.

(5) Existing law, the California Finance Lenders Law, provides for the licensure and regulation of finance lenders and brokers by the Commissioner of Business Oversight. Existing law, until January 1, 2022, provides that the law does not apply to any person who makes one loan in a specified period if that loan is a commercial loan, as defined.

This bill would instead apply that exemption to a person who does not make more than one such loan in that specified period.

(6) Existing law governing state funds provides that security is not required for that portion of any bank deposit or savings and loan association deposit that is insured under any law of the United States. Under existing law, to be eligible to receive and retain deposits, a bank or savings and loan association and credit union is required to deposit with the Treasurer as security for those deposits certain securities approved by the Treasurer in an amount in value of at least 10% in excess of the amount deposited with the bank or savings and loan association and credit union.

This bill would provide that those provisions do not apply to deposits held by the Trustees of the California State University in one or more depository institutions located outside of the United States, if certain conditions are met.

(7) Existing law, for purposes of a bank being able to receive demand or time deposits of state funds, specifies which securities may be received, and includes within that list of eligible securities a letter of credit issued by the Federal Home Loan Bank of San Francisco that includes specified terms.

This bill would require, in order for a letter of credit issued by the Federal Home Loan Bank of San Francisco to qualify as an eligible security for the purposes described above, that the letter of credit be in an amount in value of at least 100% of the amount deposited with the bank.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 5260 of the Corporations Code is amended to read:

5260. Notwithstanding any other law, every corporation, during any period or periods that corporation is deemed to be a "private foundation" as defined in Section 509 of the Internal Revenue Code of 1986, shall distribute its income for each taxable year (and principal, if necessary) at the time and in a manner so as not to subject that corporation to tax under Section 4942 of that code, and the corporation shall not engage in any act of self-dealing as defined in subsection (d) of Section 4941 of that code, retain any excess business holdings as defined in subsection (c) of Section 4943 of that code, make any investments in a manner that subjects the corporation to tax under Section 4944 of that code, or make any taxable expenditure as defined in subsection (d) of Section 4945 of that code.

This section shall apply to any corporation, and any provision contained in its articles of incorporation or other governing instrument inconsistent with, or contrary to, this section shall be without effect.

SEC. 2. Section 9260 of the Corporations Code is amended to read:

9260. Notwithstanding any other law, every corporation, during any period or periods that corporation is deemed to be a "private foundation" as defined in Section 509 of the Internal Revenue Code of 1986, shall be subject to the requirements of Section 5260.

SEC. 3. Section 23000 of the Corporations Code is amended to read:

23000. “Real estate investment trust” as used in this part means any unincorporated association or trust formed to engage in business and managed by, or under the direction of, one or more trustees for the benefit of the holders or owners (hereinafter in this part “shareowners”) of transferable shares of beneficial interest in the trust estate (hereinafter in this part “shares”) and that meets one of the following two tests:

(a) It received, before the effective date of this part, an order, permit, or qualification from the Commissioner of Corporations pursuant to the provisions of the Corporate Securities Law of 1968 or any predecessor statute finding that it was a real estate investment trust, notwithstanding the subsequent amendment, suspension or revocation of any such finding, order, permit, or qualification, and it has for one or more of its three fiscal years immediately prior to the effective date of this part complied with, or in good faith filed a federal income tax return on the basis that it has complied with the requirements for real estate investment trusts set forth in Section 856 of the Federal Internal Revenue Code; or

(b) It is formed for the purpose of engaging in business as a real estate investment trust under Part II of Subchapter M of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended from time to time; the sale of its shares has been qualified at any time by the Commissioner of Business Oversight pursuant to the Corporate Securities Law of 1968; and in good faith it has commenced business as a real estate investment trust.

An unincorporated association or trust that otherwise meets the requirements of this section shall not be affected in its status as a real estate investment trust, regardless of whether it is in fact taxable for any year or years under Part II of Subchapter M of Chapter 1 of Subtitle A of the Internal Revenue Code of 1986, as amended from time to time.

SEC. 4. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Commissioner of Business Oversight of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property that are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to: (1) any investment contract sold or offered for sale with, or as part of, that interest, or (2) any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use that is not a public utility except that the exemption is applicable to any security of a mutual water company (other than an investment contract as described in paragraph (1)) offered or sold in connection with subdivided lands pursuant to Chapter 2 (commencing with Section 14310) of Part 7 of Division 3 of Title 1.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Commissioner of Business Oversight of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by that authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of that nonprofit organization or from remuneration received from that nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.

(l) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or of that renewal, provided that the paper is not offered to the public in amounts of less than twenty-five thousand dollars (\$25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of those securities when the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus, or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus, or similar benefit plan meets those requirements shall be conclusive evidence that the plan is an employees' pension, profit-sharing, stock bonus, or similar benefit plan within the meaning of the first sentence of this subdivision until the date the determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange, if the exchange has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security. The exemption afforded by this subdivision does not apply to securities listed or approved for listing upon notice of issuance on a national securities exchange, in a rollup transaction unless the rollup transaction is an eligible rollup transaction as defined in Section 25014.7.

That certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications for listing of common stock, substantially applies the minimum standards set forth in either subparagraph (A) or (B) of paragraph (1), and, in considering suspension or removal from listing, substantially applies each of the criteria set forth in paragraph (2).

(1) Listing standards:

(A) (i) Shareholders' equity of at least four million dollars (\$4,000,000).

(ii) Pretax income of at least seven hundred fifty thousand dollars (\$750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange may also consider the listing of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing under this trading provision, the exchange shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security that trades infrequently shall not be considered for listing under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars (\$3) per share for a reasonable period of time prior to the filing of a listing application; provided, however, in certain instances an exchange may favorably consider listing an issue selling for less than three dollars (\$3) per share after considering all pertinent factors, including market conditions in general, whether historically the issue has sold above three dollars (\$3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars (\$3,000,000).

(B) (i) Shareholders' equity of at least four million dollars (\$4,000,000).

(ii) Minimum public distribution set forth in clause (iii) of subparagraph (A) of paragraph (1).

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars (\$15,000,000).

(2) Criteria for consideration of suspension or removal from listing:

(A) If a company that (i) has shareholders' equity of less than one million dollars (\$1,000,000) has sustained net losses in each of its two most recent fiscal years, or (ii) has net tangible assets of less than three million dollars (\$3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(B) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings) is less than 150,000.

(C) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(D) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars (\$750,000).

(E) If shares of common stock sell at a price of less than three dollars (\$3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.

A national securities exchange, certified by rule or order of the commissioner under this subdivision, shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer: the variances granted to an exchange's listing standards, including variances from corporate governance and voting rights' standards, for any security of that issuer; the reasons for the variances; a discussion of the review procedure instituted by the exchange to determine the effect of the variances on investors and whether the variances should be continued; and any other information that the commissioner deems relevant. The purpose of these reports is to assist the commissioner in determining whether the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange in general or with regard to any particular security.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) may, in his or her discretion, by rule or order, decertify any exchange previously certified that ceases substantially to apply the minimum standards or criteria as set forth in paragraphs (1) and (2).

A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification, and any warrant or right to purchase or subscribe to that security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, that qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may, in the commissioner's discretion, bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, a restraining order, or a writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(6) The cost of any review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.

The recoverable cost of each review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall not exceed twenty-five thousand dollars (\$25,000), except that costs exceeding twenty-five thousand dollars (\$25,000) shall be recoverable if the costs are necessary to prevent a violation of any provision of Section 1280.7 of the Insurance Code.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed one thousand dollars (\$1,000). This exemption does not apply to the shares or memberships of that corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This exemption does not apply to nonvoting shares or memberships of that corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation. This exemption also does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).

(s) Any security consisting of or representing an interest in a pool of mortgage loans that meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state, or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Commissioner of Business

Oversight, and each of which at the time of transfer to the pool is an authorized investment for the originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) The security is not offered in amounts of less than twenty-five thousand dollars (\$25,000) in the aggregate to any one purchaser.

(5) The security is offered pursuant to a registration under the Securities Act of 1933 (Public Law 112-106), as amended, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(a)(2) of that act.

(t) (1) Any security issued or guaranteed by and representing an interest in or a direct obligation of an industrial loan company incorporated under the laws of the state and authorized by the Commissioner of Business Oversight to engage in industrial loan business.

(2) Any investment certificate in or issued by any industrial loan company that is organized under the laws of a state of the United States other than this state, that is insured by the Federal Deposit Insurance Corporation, and that maintains a branch office in this state.

SEC. 5. Section 25101.1 of the Corporations Code is amended to read:

25101.1. The following securities are not subject to Sections 25110, 25120, and 25130:

(a) A security that is offered or sold in a transaction that is exempt from registration under Section 4(a)(1) or 4(a)(3) of the Securities Act of 1933 (15 U.S.C. 77r et seq.) pursuant to Section 18(b)(4)(A) of that act, if the issuer, other than a foreign (other country) issuer described in subdivision (b), of the security files the required reports with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

(b) A security of a foreign (other country) issuer that avails itself of the exemption from registration under Section 12(g)(3) of the Securities Exchange Act of 1934 is subject to the qualification requirements of Sections 25110, 25120, and 25130, unless the issuer is a reporting company under the Securities Exchange Act of 1934 and files the required reports under Section 13 or 15(d) of that act.

SEC. 6. Section 25302 of the Corporations Code is amended to read:

25302. (a) A person shall not publish any advertisement concerning any security in this state after the commissioner finds that the advertisement contains any statement that is false or misleading or omits to make any statement necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading and so notifies the person in writing. This notification may be given summarily without notice or hearing. At any time after the issuance of a notification under this section, the person desiring to use the advertisement may in writing request that the order be rescinded. Upon the receipt of the written request, the matter shall be set for hearing to commence within 15 business days after receipt unless the person making the request consents to a later date. After the hearing, which shall be conducted in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), the commissioner shall determine whether to affirm and continue or to rescind the order, and the commissioner shall have all the powers granted under the act.

(b) This section does not apply to any advertisement for any security which is subject to the supervision, regulation or examination of any of the following:

(1) The Insurance Commissioner.

(2) The Commissioner of Business Oversight.

(3) The Public Utilities Commission.

(4) The Comptroller of the Currency of the United States.

(5) The Federal Deposit Insurance Corporation.

(6) The Board of Governors of the Federal Reserve System.

SEC. 7. Section 22050.5 of the Financial Code is amended to read:

22050.5. (a) This division does not apply to any person who makes no more than one loan in a 12-month period if that loan is a commercial loan as defined in Section 22502.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 8. Section 16305.8 of the Government Code is amended to read:

16305.8. (a) Nothing in Sections 16305.3 to 16305.7, inclusive, shall apply to money drawn or collected by the Regents of the University of California.

(b) Nothing in Sections 16520 to 16533, inclusive, and Sections 16610 to 16622, inclusive, shall apply to deposits held by the Trustees of the California State University in one or more depository institutions located outside of the United States if all of the following conditions are satisfied:

(1) The deposits are necessary to support a program of foreign study attended by California State University students.

(2) A depository institution that allows the Trustees of the California State University to meet the requirements of Sections 16520 to 16533, inclusive, and Sections 16610 to 16622, inclusive, is unavailable in the country in which the program of foreign study is conducted.

(3) The amounts on deposit are either insured under a foreign law or the amounts on deposit that are not insured under foreign law do not exceed one hundred thousand dollars (\$100,000) per depository institution.

SEC. 9. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

(a) Bonds, notes, or other obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as those loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) (42 U.S.C. Sec. 1441 et seq.) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) (42 U.S.C. Sec. 1437 et seq.) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act (Public Law 64-158), as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933 (Public Law 73-75), as amended, consolidated obligations of the Federal Home Loan Banks established under the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.), bonds, debentures, and other obligations of the Federal National Mortgage Association and of the Government National Mortgage Association established under the National Housing Act of 1934 (Public Law 73-479) as amended, in the bonds of any federal home loan bank established under said act, bonds, debentures, and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970 (Public Law 91-351), and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831), as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

(g) Promissory notes secured by first mortgages and first trust deeds upon residential real property located in California, provided that:

(1) Notwithstanding Section 16521, the promissory notes shall at all times be in an amount in value at least 50 percent in excess of the amount deposited with the bank;

(2) The Treasurer issues regulations, establishes procedures for determining the value of the promissory notes and develops standards necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(h) Bonds issued by the State of Israel.

(i) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank for Puerto Rico.

(j) Any municipal securities, as defined by Section 3(a)(29) of the Securities Exchange Act of June 6, 1934, (15 U.S.C. 78, as amended), which are issued by this state or any local agency thereof.

(k) Letters of credit issued by the Federal Home Loan Bank of San Francisco, which shall be in the form and shall contain provisions as the Treasurer may prescribe, and shall include the following terms:

(1) The Treasurer shall be the beneficiary of the letter of credit.

(2) The letter of credit shall be clean and irrevocable, and shall provide that the Treasurer may draw upon it up to the total amount in the event of the failure of the bank or if the bank refuses to permit the withdrawal of funds by the Treasurer or any other authorized state officer or employee.

(3) Notwithstanding Section 16521, the letter of credit shall at all times be an amount in value of at least 100 percent of the amount deposited with the bank.

(l) An eligible bank that has been selected by the Treasurer for the safekeeping of money belonging to, or in the custody of, the state, and that has its headquarters located outside of the state, may submit letters of credit that are drawn on its regional federal home loan bank as security, solely for deposits maintained in the Treasurer's demand accounts, and subject to the terms set forth in paragraphs (1) to (3), inclusive, of subdivision (k).