

Chapter 8 Industrial Banks

7-8-3 Organization -- Authorization to conduct business -- Deposit insurance.

- (1) Subject to Subsection (4), the commissioner may authorize a person described in Subsection (2) to conduct business as an industrial bank.
- (2)
 - (a) Each person organized to conduct the business of an industrial bank in this state shall be organized under:
 - (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act; or
 - (ii) in accordance with Section 7-1-810 or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act.
 - (b) A person may not conduct business as an industrial bank authorized under this chapter to conduct business as an industrial bank in any form of entity other than those provided in Subsection (2)(a).
- (3)
 - (a) All rights, privileges, powers, duties, and obligations of a corporation authorized to conduct business as an industrial bank and its officers, directors, and stockholders shall be governed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, except as otherwise provided in this title.
 - (b) All rights, privileges, powers, duties, and obligations of a limited liability company authorized to conduct business as an industrial bank and its members and managers shall be governed by Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, except as otherwise provided in this title.
- (4)
 - (a) An industrial bank is authorized to receive and hold deposits.
 - (b) An industrial bank may not conduct business under this chapter as an industrial bank unless the industrial bank obtains insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity for any deposits received or held by the industrial bank.

Amended by Chapter 281, 2018 General Session

7-8-5 Acquisition of own stock restricted -- Capital requirements.

- (1)
 - (a) An industrial bank may not accept as collateral, or be a purchaser of, shares of its own capital stock, unless taking the shares as collateral or purchasing them is necessary to prevent loss upon a debt previously contracted in good faith.
 - (b) All shares of stock acquired under this Subsection (1) by the industrial bank through any purchase, foreclosure, judgment, or otherwise shall be sold within 12 months from the date of acquisition.
 - (c) The par value of all the shares held after acceptance or purchase may not exceed 10% of the capital and surplus of the industrial bank.
- (2)
 - (a) Each industrial bank accepting or holding deposits shall maintain the minimum amount of capital required by its federal deposit insurer.

- (b) The commissioner may require a greater amount of capital if the commissioner determines that it is necessary to protect the interests of:
 - (i) the depositors and other customers of the industrial bank; and
 - (ii) the public.

Amended by Chapter 92, 2004 General Session

7-8-7 Reports to commissioner.

Each industrial bank shall file reports of its condition in accordance with Section 7-1-318.

Amended by Chapter 92, 2004 General Session

7-8-11 Dividends.

- (1) The board of directors of an industrial bank may declare a dividend out of the net profits of the industrial bank after providing for all expenses, losses, interest, and taxes accrued or due from the industrial bank in accordance with this section.
- (2) The industrial bank shall transfer to a surplus fund at least 10% of its net profits before dividends for the period covered by the dividend, until the surplus reaches 100% of its capital stock.
- (3) Any amount paid from the industrial bank's net earnings into a fund for the retirement of any debenture capital or preferred stock for the period covered by the dividend is considered an addition to its surplus fund if, upon the retirement of the debenture capital or preferred stock, the amount paid into the retirement fund for the period may be properly carried to the surplus fund of the industrial bank. In this case the industrial bank shall transfer to the surplus fund the amount paid into the retirement fund.

Amended by Chapter 97, 2014 General Session

7-8-13 Real estate acquisition, holding, and conveyance.

An industrial bank may purchase, hold, and convey real estate, other than premises used in the conduct of its business, only for the purposes and in a manner prescribed by rule.

Amended by Chapter 92, 2004 General Session

7-8-14 Investment in property used in conduct of business.

- (1) An industrial bank may invest in premises, equipment, and other property used in conducting its own business, as the board of directors may approve by resolution. This property may include:
 - (a) real property and any interest in real property, furniture, fixtures, and equipment for use in carrying on its own business; and
 - (b) the stock, bonds, debentures, or other obligations of any subsidiary or affiliate whose exclusive activity is the ownership and management of property used in conducting the industrial bank's business.
- (2) The amount of these investments may not exceed 50% of the industrial bank's total capital, unless the commissioner approves a higher amount in writing.

Amended by Chapter 92, 2004 General Session

7-8-15 Bad debts.

- (1) All demand and matured debts due to any industrial bank on which interest is past due and has not been paid for a period of six months, unless they are well secured and in the process of collection, are considered bad debts and shall be charged off to the profit and loss account.
- (2) The industrial bank shall maintain in its files documentation to support its evaluation of the security and monthly reports of its collection efforts and a plan of collection.

Amended by Chapter 92, 2004 General Session

7-8-16 Registration of industrial bank holding company -- Filing and contents of statement -- Exemptions -- Rules.

- (1) Each industrial bank holding company shall register with the department by filing a registration statement in a form prescribed by the commissioner. The statement shall include:
 - (a) the name, address, and principal occupation of each officer and director of the registrant;
 - (b) a statement of financial condition as of a date not more than six months prior to the date of registration;
 - (c) a certificate of good standing in the state in which the registrant is incorporated; and
 - (d) evidence that the company is authorized to transact business in this state.
- (2)
 - (a) A person may not form an industrial bank holding company, unless it:
 - (i) is authorized to do so by the commissioner; and
 - (ii) is registered with the department as provided in Subsection (1).
 - (b) An applicant for authorization to form a holding company shall file an application in a form prescribed by the commissioner by rule.
- (3) The commissioner may exempt an industrial bank holding company in whole or in part from registration if it is:
 - (a) a bank holding company or savings and loan holding company subject to federal regulation;
 - (b) a person that is a holding company only because the person owns or controls voting shares of an industrial bank or holding company acquired in connection with the underwriting of securities if the person holds these shares no longer than 120 days, unless the commissioner approves a longer period to permit their sale on a reasonable basis;
 - (c) a person exempt from the jurisdiction of the department under Section 7-1-502; or
 - (d) a person exempted in writing by the commissioner or by rule.
- (4) The commissioner may adopt rules with respect to industrial bank holding companies as are necessary to protect:
 - (a) depositors;
 - (b) other creditors;
 - (c) the public; and
 - (d) the financial system of the state.

Amended by Chapter 92, 2004 General Session

7-8-19 Meetings of the board of directors.

- (1) A quorum of the board of directors of each industrial bank shall meet at least once each quarter.
- (2) Minutes of each meeting of the board of directors shall be:
 - (a) kept by the secretary of the industrial bank; and
 - (b) maintained at the head office of the industrial bank.

Amended by Chapter 92, 2004 General Session

7-8-20 Limitations on loans to one borrower -- Exceptions -- Rules.

- (1) Except as provided in this section, the total loans and extensions of credit, including credit exposure to a derivative transaction, by an industrial bank to a person outstanding at any one time may not exceed 15% of the industrial bank's total capital.
- (2) Subsection (1) does not apply to an extension of credit that is subject to, or expressly exempted from, a federal statute or federal regulation limiting the amount of total loans and credit that may be extended to any person or group of persons.
- (3) The commissioner may by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) exempt from Subsection (1) a class of loans or class of extensions of credit, including credit exposure to a derivative transaction, that are adequately secured or are not otherwise a risk to the safe and sound operation of an industrial bank;
 - (b) define terms and phrases necessary to interpret and implement this section;
 - (c) adopt standards for aggregating or segregating loans to the same or different persons;
 - (d) describe records required to be maintained;
 - (e) require specific actions to be taken by an institution's board of directors or executive officers; and
 - (f) prescribe other actions necessary to interpret and implement this section.

Amended by Chapter 194, 2012 General Session

7-8-21 Application of chapter to industrial loan companies.

- (1) As used in this section, "industrial loan company" is a person that on March 17, 2004, is:
 - (a) authorized to conduct business under this chapter; and
 - (b) not authorized to hold or receive deposits.
- (2) An industrial loan company may operate as an industrial bank under this chapter except that the industrial loan company:
 - (a) may not hold or receive deposits without:
 - (i) the prior written approval of the commissioner; and
 - (ii) obtaining insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity;
 - (b) may not engage in any conduct authorized by this title that is conditioned on the industrial loan company being a depository institution without meeting the conditions described in Subsections (2)(a)(i) and (ii); and
 - (c) may not use a term listed in Subsection 7-1-701(3) in its name without meeting the conditions described in Subsections (2)(a)(i) and (ii).
- (3) If a person is not authorized to conduct business under this chapter on March 17, 2004, that person may not be considered an industrial loan company under this section.

Enacted by Chapter 92, 2004 General Session