



REGULATORY AGENCY ACTION

person engaged in operating, owning, or maintaining on-sales premises, as specified. The court further ruled that the offending language in section 106(e)(1) could not be severed from the balance of the subdivision, thus rendering subsection (e)(1) invalid in its entirety. The remaining provisions of section 106 were not affected by the court's ruling.

BANKING DEPARTMENT

Superintendent: Howard Gould
(415) 557-3232

The State Banking Department administers all laws applicable to corporations engaging in the commercial banking or trust business, including the establishment of state banks and trust companies; the establishment, operation, relocation, and discontinuance of various types of offices of these entities; and the establishment, operation, relocation, and discontinuance of various types of offices of foreign banks.

The superintendent, the chief officer of the Department, is appointed by and holds office at the pleasure of the Governor. The superintendent approves applications for authority to organize and establish a corporation to engage in the commercial banking or trust business. In acting upon the application, the superintendent must consider:

(1) the character, reputation, and financial standing of the organizers or incorporators and their motives in seeking to organize the proposed bank or trust company;

(2) the need for banking or trust facilities in the proposed community;

(3) the ability of the community to support the proposed bank or trust company, considering the competition offered by existing banks or trust companies; the previous banking history of the community; opportunities for profitable use of bank funds as indicated by the average demand for credit; the number of potential depositors; the volume of bank transactions; and the stability, diversity and size of the businesses and industries of the community. For trust companies, the opportunities for profitable employment of fiduciary services are also considered;

(4) the character, financial responsibility, banking or trust experience and business qualifications of the proposed officers; and

(5) the character, financial responsibility, business experience and standing of the proposed stockholders and directors.

The superintendent may not approve

any application unless he/she determines that the public convenience and advantage will be promoted by the establishment of the proposed bank or trust company; conditions in the locality of the proposed bank or trust company afford reasonable promise of successful operation; the bank is being formed for legitimate purposes; the proposed name does not so closely resemble as to cause confusion the name of any other bank or trust company transacting or which has previously transacted business in the state; and the applicant has complied with all applicable laws.

If the superintendent finds that the proposed bank or trust company has fulfilled all conditions precedent to commencing business, a certificate of authorization to transact business as a bank or trust company will be issued.

The superintendent must also approve all changes in the location of a head office, the establishment or relocation of branch offices and the establishment or relocation of other places of business. A foreign corporation must obtain a license from the superintendent to engage in the banking or trust business in this state. No one may receive money for transmission to foreign countries or issue travelers checks unless licensed. The superintendent also regulates the safe-deposit business.

The superintendent examines the condition of all licensees. However, as the result of the increasing number of banks and trust companies within the state and the reduced number of examiners following passage of Proposition 13, the superintendent now conducts examinations only when necessary, but at least once every two years. The Department is coordinating its examinations with the FDIC so that every other year each agency examines certain licensees. New and problem banks and trust companies are examined each year by both agencies.

The superintendent administers the Small Business Loan Program, designed to provide long-term capital to rapidly growing small businesses whose growth exceeds their ability to generate internal earnings. Under the traditional standards used by banks, these small businesses cannot provide adequate security to qualify for regular bank loans.

The superintendent licenses Business and Industrial Development Corporations which provide financial and management assistance to business firms in California.

Acting as Administrator of Local Agency Security, the superintendent

oversees all deposits of money belonging to a local governmental agency in any state or national bank or savings and loan association. All such deposits must be secured by the depository.

MAJOR PROJECTS:

Interstate Regulatory Agreement Signed. During the recent Annual Convention of the Conference of State Bank Supervisors in Orlando, Florida, Superintendent Gould obtained the signatures of twelve state bank superintendents from western states, setting the stage for cooperative state and federal regulation of interstate bank operations. Each state will share confidential information regarding the financial condition of a bank, management evaluations, business practices, compliance with laws, current financial statements, enforcement action against an institution, and notice of adverse or significant events which may have an impact upon affiliates operating in other states.

Stock Option Guidelines Proposed. On April 22, Superintendent Gould announced that the Department would propose regulations which would exempt from the permit requirement of Financial Code section 691 stock options which comply with certain guidelines. The regulations would also set forth administrative standards for processing applications for permits to insure non-exempt stock options.

The proposed regulations will be drafted and published for comment in the future. Pending submission and approval of the regulations by Office of Administrative Law, the Superintendent has decided to set forth "administrative standards" permitting the use of stock options on a broader basis effective immediately. These new administrative standards for stock options are directed at directors, full-time salaried officers, and employees of banks. The number of shares subject to outstanding stock options held by a single optionee may not exceed 10% of the total outstanding shares of the same class and series of the bank.

Address Changes. The State Banking Department has moved. Effective February 1, 1988, the Department's San Francisco office is now located at 111 Pine Street, Suite 1100, San Francisco, CA 94111-5613. The Department's telephone number, (415) 557-3232, remains the same.

Effective April 4, 1988, the office of the Administrator of Local Agency Security has a new location. The new address is 111 Pine Street, Suite 1000,



San Francisco, CA 94111-5612.

1987 Earnings Reported. On April 8, Chief Deputy Superintendent Harold D. Doyle released the 1987 performance report on California state-chartered deposit banks. According to the Department, banks ranging in size from \$25 million to \$500 million in deposits did very well. These banks represent 82% of the 279 registered state-chartered banks. Specifically, they had a mean return on assets (ROA) of .75 (the net income divided by total assets); and a mean return on equity (ROE) of 9.22 (net income divided by total equity). In another favorable development, the number of state banks operating at a loss for the year declined to 41 banks. That figure is down from 66 banks in 1986 and a recent high of 87 banks in 1983.

However, the performance of state-chartered banks as a whole reflects a decline. In 1987, there was an 85% decline in operating profits, primarily due to those banks engaged in foreign lending which set aside sizable reserves for loans to Latin American countries. Consequently, the loan loss provisions of all California state-chartered banks increased from \$597 million in 1986 to \$1.24 billion in 1987, a jump of 108%.

State Banks Assets and Liabilities Reported. As of December 31, 1987, the 279 state-chartered banks of deposit with 1,716 branches had total assets of \$9.2 billion, a decrease of \$1.2 billion or 13% from December 31, 1986. During this period, there was a net decrease of eight banks and an increase of sixteen branches.

Fiduciary assets of the trust departments of 42 state-chartered banks, one title insurance company, and 19 non-deposit trust companies totalled \$108.2 billion, a decrease of \$74.1 billion or 40.6% from December 31, 1986. The assets of 102 agencies and branches of foreign banking corporations totalling 117 offices increased 11% to \$68.5 billion.

Acquisition of Foreign Bank Stock Approved. The application of First Interstate Bank of California (Los Angeles) to acquire and hold majority control of stock in Korea Long Term Credit Bank (Seoul, Korea) through its wholly owned subsidiary, First Interstate Overseas Investment, Inc., was filed and approved on February 11, pursuant to section 3580 of the California Financial Code.

"Strategic Plan '88" Released. On February 3, at the 35th Annual Meeting of the Independent Bankers Association's Legislative Conference, Superintendent

Gould released the Department's plan for "Adapting to a Changing Financial Services Environment." With the input of staff and many bankers, the Department has devised a management plan that will permit it to "effectively adapt to the tremendous change taking place in the areas of its responsibility." This first-ever long-range plan recognizes the Department's need for active "change and adaptation in order to maintain effectiveness and efficiency."

As elements of the Department's mission, it plans to promote public confidence in the health of regulated financial institutions; provide the California economy with the benefits of a healthy financial services system; help maintain a competitive, profitable banking industry; support the concept of state authority in a dual banking system by effectively managing the chartering and regulatory process; and assure that the Department is prepared and able to adapt to a rapidly changing financial services environment. To accomplish this mission, the Department will focus on four major objectives, and has set forth fifteen strategies to accomplish those ends. The Superintendent labelled this program as "truly an ambitious project that will take a number of years to accomplish."

Warnings Issued. On March 30, the Superintendent issued a warning to cease and desist from doing business in California without a license to Monytron, Inc., in Huntington Park. Monytron is not authorized to receive money for the purpose of transmission to foreign countries or to solicit and accept deposits.

On March 25, the Department announced it has issued an order to cease and desist from doing business in California without a license to California Capital Fund, Business and Industrial Development Corporation in Oakland. California Capital Fund is not authorized to transact business in the way or manner of a business and industrial development corporation.

Night Depository Bag Warning. The Department has received information that polyethylene self-sealing bags provided by banks to their commercial customers for deposit in night depositories may not be tamper-proof. It is possible to open and reseal the bags in a manner which may not be detectable.

LEGISLATION:

SB 2583 (Craven) would add section 955 to the Financial Code. Existing law makes no provision requiring banks, acting as a trustee for the purpose of holding bearer bonds, to pay interest on

those bonds where there has been a call of those bonds and the bank has not timely responded. As amended May 3, this bill would require a bank to pay interest to the bondholder equal to the bank's passbook rate of interest, or the interest rate yield on the bearer bond, whichever is less, from the date of the call to and including the date the bank redeems the bonds. The bill passed the Senate on May 12 and is pending in the Assembly Finance and Insurance Committee.

AB 3114 (Lancaster) would repeal section 1230 of the Financial Code, which prohibits a commercial bank from lending in the aggregate an amount in excess of 70% of the amount of its savings and other time deposits upon the security of real property in addition to specified loans guaranteed by the Administrator of Veterans' Affairs, the Federal Housing Administration, and the Farmers Home Administration. The bill passed the Assembly and is pending in the Senate Committee on Banking and Commerce.

SB 2700 (Keene) would create a new division in the Financial Code (Division 1.4) to provide for the establishment, operation, and supervision of California savings banks. This bill has been referred for interim study by the Senate Committee on Banking and Commerce.

SB 2701 (Keene) would amend section 5762 of the Business and Professions Code to authorize the establishment and operation of savings banks. This bill was also referred for interim study by the Senate Committee on Banking and Commerce.

The following is a status update on bills discussed in detail in CRLR Vol. 8, No. 2 (Spring 1988) at page 83:

SB 315 (Montoya), which would impose specified disclosure requirements on those holding themselves out as financial planners, passed the Senate and is pending in the Assembly Finance and Insurance Committee at this writing.

AB 2030 (Seastrand) is a companion bill of SB 315, and would include financial planners within the definition of "investment advisers." This bill passed the Assembly on May 26 and is pending in the Senate Business and Professions Committee.

AB 3515 (Johnson), regarding bank acquisitions by foreign (national) banks, has been referred for interim study by the Assembly Finance and Insurance Committee.