

Chapter 5
Industrial Loan and Thrift Companies

[Part 1 —General Provisions](#)

[Part 2 —Registration of Companies](#)

[Part 3 —Powers of Registered Companies](#)

[Part 4 —Interest and Borrowers](#)

[Part 5 —Supervision by Commissioner](#)

[Part 6 —Industrial Banks and Industrial Investment Companies](#)

Part 1
—General Provisions

[45-5-101. Purpose and construction. —](#)

[45-5-102. Chapter definitions. —](#)

[45-5-103. Requirement of registration. —](#)

[45-5-104. Scope of chapter. —](#)

[45-5-105. Persons registered under former law. —](#)

[45-5-106. Violation of provisions a misdemeanor — Penalty. —](#)

[45-5-107. Delegation to industrial loan and thrift companies division. —](#)

45-5-101. Purpose and construction. —

(a) This chapter is adopted for the purpose of revising and restating the Industrial Loan and Thrift Companies Act, to the end that the people of this state may have available the facilities and resources of regulated lending institutions to meet their needs for loans at rates and charges reasonably commensurate with economic realities.

(b) This chapter shall be liberally construed to effectuate its declared purpose, and to that end, no charge authorized under this chapter shall be construed as interest or a loan charge that is not defined and denominated as such.

(c) The procedural provisions of this chapter shall be construed in pari materia with the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5, to the end that all proceedings under this chapter to which the Uniform Administrative Procedures Act applies shall be governed by the Uniform Administrative Procedures Act, with the provisions of this chapter construed as supplemental thereto. Only where there is an express conflict shall this chapter be deemed to control.

[Acts 1979, ch. 204, § 25; T.C.A., § 45-2025.]

45-5-102. Chapter definitions. —

As used in this chapter, unless the context otherwise requires:

(1) “Actuarial method” means the method of allocating payments made on a debt between the principal and interest pursuant to which payment is applied first to accumulated interest and any remainder is subtracted from, or any deficiency is added to, the unpaid principal balance of the debt;

(2) “Affiliated lender” means any industrial loan and thrift company or industrial investment company or industrial bank under common control with another registrant, or working together with another registrant, so as to effect for each other a greater volume of business;

(3) “Commissioner” means the commissioner of financial institutions;

(4) “Control” means possession, direct or indirect, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of voting securities by contract or otherwise; provided, that no individual shall be deemed to control a person solely on account of being a director, officer, or employee of the person. For purposes of this section, a person who, directly or indirectly, owns, controls, holds the power to vote, or holds proxies representing twenty-five percent (25%) or more of the then outstanding voting securities issued by another person is presumed to control the person. For purposes of this section, the commissioner may determine whether a person, in fact, controls another person;

(5) “Controlling person” means any person in control of a registrant;

(6) “Effective rate of interest” means the simple rate of interest, including the result of converting discount or other nominal rates of interest into simple rates of interest;

(7) “Endorsement company” is any person engaged in the business of arranging for the making of loans, other than a residential mortgage loan, for a fee, consideration or charge, by endorsement or by providing security for loans or otherwise, even though the person does not actually make the loan; provided, however, that for loans, other than a residential mortgage loan, a natural person may refer a potential borrower to a registrant and receive a fee or consideration from the registrant without being deemed an “endorsement company,” so long as the natural person does not claim to be a loan broker or “endorsement company”;

(8) “Industrial bank” means a person organized and registered as an industrial bank pursuant to this chapter, engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, that issues thrift certificates and

that is also examined, supervised and liquidated as a state bank under this title;

(9) “Industrial investment company” means a person organized and registered as an industrial investment company pursuant to this chapter, engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, that issues investment certificates subject to the Tennessee Securities Act, compiled in title [48](#), chapter 2, part 1, and that is also examined, supervised and liquidated as a state bank under this title;

(10) “Industrial loan and thrift company” means a person engaged in the business of making loans and imposing the interest and loan charges authorized under this chapter, and includes persons engaged in business as endorsement companies;

(11) “Interest” means compensation for the use, detention or forbearance to collect money over a period of time, and does not include compensation for other purposes, including, but not limited to:

(A) Time-price differentials;

(B) Loan charges as provided in § [45-5-403](#); and

(C) Insurance charges as provided in § [45-5-305](#);

(12) (A) “Investment certificate” means a writing by which an industrial investment company evidences its receipt of money from a natural person and its obligation to repay the money, with interest, in accordance with the provisions of the writing, which certificates are not insured by an agency of the United States government;

(B) “Investment certificate” does not include:

(i) Promissory notes, bonds, debentures, commercial paper and the like issued by an industrial loan and thrift company or industrial investment company or industrial bank to a bank, insurance company, or other commercial lender; or

(ii) A promissory note — provided, that the note is nonnegotiable to a natural person and includes a provision to the effect that any attempt at its assignment to any person other than the maker, a bank, insurance company, or other commercial lender shall be null, void and of no effect — issued by an industrial loan and thrift company to the following:

(a) A bona fide executive officer who works at least thirty (30) hours per week at the company, or to members of the executive officer's immediate family;

(b) A voting member of the board of directors of the company, or to members of the voting member's immediate family; or

(c) To a shareholder, including a beneficial owner, of the company where the shareholder and members of the shareholder's immediate family own at least twenty-five percent (25%) of the outstanding voting shares of the company;

(C) For purposes of subdivision (12)(B)(ii), “immediate family” includes a note payee, and the payee's parents, grandparents, siblings, children and grandchildren; and

(D) The burden of demonstrating to the commissioner that an obligation is not an “investment certificate” shall be on the registrant, and the registrant shall file its reports under this chapter in a manner that clearly reflects that exempt status is being claimed;

(13) “Loan charges” means compensation to a registrant for services, expenses, detriments or commitments directly incident to a loan, and does not include compensation for other purposes, including, but not limited to, time-price differentials, interest or insurance charges;

(14) (A) In general, “loan processor or underwriter” means an individual who performs clerical or support duties as an employee, not an independent contractor, at the direction of and subject to the supervision and instruction of a registrant authorized to make residential mortgage loans;

(B) For purposes of subdivision (14)(A), “clerical or support duties” may include, subsequent to the receipt of an application for a residential mortgage loan:

(i) The receipt, collection, distribution and analysis of information common for the processing or underwriting of the loan; and/or

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of the loan, to the extent that the communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

(15) “Mortgage loan originator” means:

(A) An individual who, for compensation or gain or in the expectation of compensation or gain:

(i) Takes a residential mortgage loan application; or

(ii) Offers or negotiates terms of a residential mortgage loan;

(B) “Mortgage loan originator” does not include an individual engaged solely as a loan processor or underwriter for a registrant, unless that individual is an independent contractor and not an employee;

(16) “Nationwide Mortgage Licensing System and Registry” means a mortgage

licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators;

(17) “Nominal rate of interest” means a stated rate of interest, other than simple interest, including, but not limited to, discount interest;

(18) “Person” means an individual, corporation, firm, trust, estate, partnership, joint venture or association, as the context may require;

(19) “Principal” means the total of money paid to, received by, or paid or credited to the account of the borrower, including loan charges as provided in § [45-5-403](#)(1), (2) and (3), as applicable, and including insurance charges for which the borrower contracts to pay pursuant to § [45-5-305](#);

(20) “Registrant” means any person registered as an industrial loan and thrift company, industrial investment company or industrial bank under this chapter;

(21) “Residential mortgage loan” means any loan, including an extension of credit, primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling, as defined in § 103(v) of the federal Truth in Lending Act, codified in 15 U.S.C. § 1602(v), or residential real estate upon which is constructed or intended to be constructed a dwelling, as so defined;

(22) “Residential real estate” means any real property located in this state upon which is constructed or intended to be constructed a dwelling;

(23) “Simple rate of interest” means the ratio between the interest payable on an obligation and the principal for a period of time, expressed as a percentage for a period such as a year or a month;

(24) “Thrift certificate” means a writing by which an industrial bank evidences its receipt of money from a natural person and its obligation to repay the money, with interest in accordance with the provisions of the writing, that is insured by an agency of the United States government. “Thrift certificate” does not include investment certificate, and does not include commercial paper or other evidence of indebtedness issued by an industrial bank to a bank, insurance company or other commercial lender;

(25) “Total amount of the loan” means the aggregate amount of money scheduled to be paid by a borrower to a registrant to repay a loan, including principal and any interest precomputed and deducted in advance; and

(26) “Unique identifier” means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

[Acts 1979, ch. 204, § 1; T.C.A., § 45-2001; Acts 1983, ch. 274, § 8; 1988, ch. 737, § 1; 1990, ch. 857, §§ 1, 3; 1991, ch. 57, § 1; 1997, ch. 19, § 1; 2001, ch. 165, §§ 1, 2; 2009, ch. 499, §§ 1, 2.]

45-5-103. Requirement of registration. —

(a) Except as otherwise provided by this chapter, no person shall engage in business as an industrial loan and thrift company or industrial bank or industrial investment company without obtaining from the commissioner a certificate of registration as herein provided.

(b) A separate certificate of registration shall be required for each office or other place from which the business is conducted. However, loans secured by real property are not required to be closed at an office where the registrant making the loan is registered; but the loans may be closed at the office of any attorney at law licensed to practice in Tennessee or at the office of a title insurance company or title insurance agency licensed to do business in Tennessee; provided, that the closing location is within the state of Tennessee and within one hundred (100) miles of any registered office of the registrant making the loan.

[Acts 1979, ch. 204, § 2; T.C.A., § 45-2002; Acts 1983, ch. 274, § 9; 1993, ch. 133, § 1.]

45-5-104. Scope of chapter. —

This chapter applies only to persons engaged in business as industrial loan and thrift companies or industrial banks or industrial investment companies. Neither the requirement of registration nor any other provision of this chapter shall apply to any state or national bank, other than industrial banks, any state or federal savings and loan association, any state or federal credit union, any insurance company, or any other person engaged in the business of making loans whose activities in so doing are subject to supervision and regulation by a state or federal administrative agency; nor shall the requirement of registration or any other provision of this chapter apply to licensed pawnbrokers, or to any person engaged in the sale of goods or services as a licensed pawnbroker.

[Acts 1979, ch. 204, § 3; T.C.A., § 45-2003; Acts 1983, ch. 274, § 10.]

45-5-105. Persons registered under former law. —

Any person holding a certificate of registration under this chapter as of May 16, 1983, shall be deemed, as of that date, to be registered as an industrial loan and thrift company hereunder, without the necessity of reapplying or paying any additional fees.

[Acts 1979, ch. 204, § 24; T.C.A., § 45-2024; Acts 1983, ch. 274, § 11.]

45-5-106. Violation of provisions a misdemeanor — Penalty. —

Any person who willfully violates this chapter commits a Class C misdemeanor.

[Acts 1979, ch. 204, § 23; T.C.A., § 45-2023; Acts 1989, ch. 591, § 113.]

45-5-107. Delegation to industrial loan and thrift companies division. —

The commissioner may by order delegate the powers and duties under this chapter to the assistant commissioner for the industrial loan and thrift companies division that are appropriate for the effective administration of this chapter.

[Acts 1983, ch. 274, § 12.]

Part 2
—Registration of Companies

45-5-201. General qualifications for registration. —

45-5-202. Procedures for registration. —

45-5-203. Expiration of registration certificates — Renewal — Fees — Evidence that surety bond adjusted — Continuing education and testing. —

45-5-204. Denial of applications for registration. —

45-5-205. Suspension or revocation of certificates of registration. —

45-5-206. Lost certificates of registration — Substitutions. —

45-5-207. License requirement — Sponsorship — Registrant subject to all applicable requirements and prohibitions of chapter 13 of this title — Violations — Submission of reports to the Nationwide Mortgage Licensing System and Registry. —

45-5-201. General qualifications for registration. —

(a) In order to qualify for registration as an industrial loan and thrift company, a person must:

(1) Demonstrate experience, character and general fitness to command the confidence of the public and warrant the belief that the business to be operated will be operated lawfully and fairly;

(2) If a natural person or a partnership, have a net worth of at least twenty-five thousand dollars (\$25,000) for each office or place of business to be registered;

(3) If a corporation, be either:

(A) Organized under the Tennessee Business Corporation Act, compiled in title [48](#), chapters 11-27, to transact business as an industrial loan and thrift company; or

(B) Organized and existing under the laws of some other jurisdiction, holding a certificate of authority to transact business in this state from the secretary of state under the Tennessee Business Corporation Act and authorized to transact business as an industrial loan and thrift company or to engage in a similar business in the jurisdiction of its incorporation; and

(4) Whether foreign or domestic, have a total stated capital and surplus of at least twenty-five thousand dollars (\$25,000) for each certificate of registration.

(b) In order to qualify for registration as an industrial investment company or industrial bank, a person must:

(1) Demonstrate experience, character and general fitness as to command the confidence of the public and warrant the belief that the business to be operated will be operated lawfully and fairly;

(2) Have a capital structure in accordance with § [45-5-603](#);

(3) Be organized under the Tennessee Business Corporation Act to transact business as an industrial bank or industrial investment company, as the case may be;

(4) Have a name that does not include the word “bank” or any word deceptively similar thereto; and

(5) Comply with the requirements of part 6 of this chapter.

[Acts 1979, ch. 204, § 4; T.C.A., § 45-2004; Acts 1983, ch. 274, § 13; 1994, ch. 551, § 19.]

45-5-202. Procedures for registration. —

(a) In order to obtain a certificate of registration, a person must file an application with the commissioner on forms approved and furnished by the commissioner, giving the information that the commissioner may reasonably require in order to determine the qualifications of the applicant, including, but not limited to, identification of all persons owning an interest in the applicant and addresses of any affiliated lenders in this state.

(b) Upon the filing of an application and the payment by the applicant of a nonrefundable investigation fee in the amount of three hundred seventy-five dollars

(\$375), the commissioner shall investigate the facts concerning the application and the information contained therein. If the commissioner finds that the applicant meets the qualifications herein specified for registration, the commissioner shall grant the application. The investigation fee shall constitute the registration fee for the first registration year or part thereof.

(c) At the time of the filing of an application for a certificate of registration, each applicant that makes or proposes to make residential mortgage loans shall file with the commissioner a surety bond payable to the state, in a form to be approved by the commissioner, for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the registrant. The surety bond shall provide coverage for each mortgage loan originator in an amount that reflects the dollar amount of residential mortgage loans originated by the registrant, as determined by the commissioner; provided, that, for the first period of registration during which the company makes or proposes to make residential mortgage loans, or for the 2009-2010 registration period, or both, as applicable, the surety bond shall be in the amount of two hundred thousand dollars (\$200,000). Only one (1) bond is required for the registrant, regardless of the number of offices. Immediately upon recovery upon any action on the bond, the registrant shall file a new bond. The bond shall be maintained by the registrant for not less than twenty-four (24) months following the expiration, revocation, suspension or surrender of the certificate of registration. A registrant that has obtained registration under subsection (d) shall first comply with the surety bond requirements of this subsection (c) prior to making or proposing to make a residential mortgage loan. A registrant authorized to make residential mortgage loans on July 1, 2009, and holding a letter of credit, as opposed to a surety bond, shall be required to comply with the surety bond requirements of this subsection (c) in order to renew the registrant's registration in 2010.

(d) All other applicants shall, at the time of the filing of an application for a certificate of registration, file with the commissioner a surety bond payable to the state or a letter of credit, in each case in a form to be approved by the commissioner, for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the registrant or the registrant's employees, or both, in the amount of fifty thousand dollars (\$50,000). Only one (1) bond or letter of credit is required, regardless of the number of offices of the registrant. The bond or letter of credit shall be maintained by the registrant for not less than twenty-four (24) months following the expiration, revocation, suspension or surrender of the certificate of registration.

(e) As a condition of registration for applicants that propose to make residential mortgage loans, or as a condition of a registrant later obtaining such authority, the commissioner may adopt rules to require that certain individuals associated with the

applicant or registrant successfully complete testing or educational courses, or both, approved by the commissioner. The rules may extend to any individual who is an officer, partner, managing member or controlling person, or to any other individual associated with the applicant or registrant as is reasonably necessary to meet the purposes of this chapter.

(f) The commissioner may require education and testing providers of any of the educational courses or tests required under this chapter to file information regarding the contents and materials of the proposed courses or tests with the commissioner for review and approval. The commissioner may set fees for the initial and continuing review of courses and tests.

(g) The commissioner is authorized to require an applicant for a certificate of registration to consent to a criminal history records check and to provide with the application fingerprints in a form acceptable to the commissioner. The commissioner may require such consent and fingerprints from any individual who is an officer, partner, managing member or ultimate equitable owner of ten percent (10%) or more of the applicant, as well as from any other individual associated with the applicant as is reasonably necessary to meet the purposes of this chapter. Refusal of any person to consent to a criminal history records check or to provide fingerprints as allowed by this section constitutes grounds for the commissioner to deny registration to the applicant.

(h) Any criminal history records check conducted under subsection (g) shall be conducted by the Tennessee bureau of investigation or the federal bureau of investigation, or both, and the results of the criminal history records check shall be forwarded to the commissioner. All costs incurred in conducting the criminal history records check shall be paid by the applicant, in addition to any other investigative and application fees required by this chapter.

[Acts 1979, ch. 204, § 5; T.C.A., § 45-2005; Acts 2001, ch. 165, §§ 3, 4; 2009, ch. 499, §§ 3, 4.]

45-5-203. Expiration of registration certificates — Renewal — Fees — Evidence that surety bond adjusted — Continuing education and testing. —

(a) A certificate of registration shall expire on July 1. Each certificate of registration may be renewed upon application by the registrant showing continued compliance with the requirements of § [45-5-201](#), and payment of an annual registration fee of three hundred twenty-five dollars (\$325). The completed renewal application and payment of the annual registration fee shall be sent to the department on or before June 1 of each year.

(b) As a condition of renewal of a certificate of registration for a registrant that makes or proposes to make residential mortgage loans, the registrant shall file with its renewal application evidence that its surety bond is adjusted in accordance with § [45-5-202](#)(c).

(c) As a condition of renewal of a certificate of registration for a registrant that makes or proposes to make residential mortgage loans, the commissioner may adopt rules to require that any of the individuals identified pursuant to § [45-5-202](#)(e) successfully complete continuing education course requirements. The rules pertaining to continuing education requirements, as well as those pertaining to any testing or education requirements, or both, under § [45-5-202](#), may include criteria for content, accreditation of sponsors and programs, computation of credit, special cases and exemptions, general compliance procedures and sanctions for noncompliance.

[Acts 1979, ch. 204, § 6; T.C.A., § 45-2006; Acts 1984, ch. 698, § 2; 2001, ch. 165, § 5; 2009, ch. 499, § 5.]

45-5-204. Denial of applications for registration. —

(a) If the commissioner determines that an applicant is not qualified to receive a certificate of registration, the commissioner shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(b) If the commissioner denies an application, or if the commissioner fails to act on an application within ninety (90) days after its filing, the applicant may make written demand to the commissioner for a hearing before the commissioner on the question of

whether the certificate of registration should be granted.

(c) The hearing shall be conducted pursuant to the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5. In the hearing, the burden of proving that the applicant is entitled to a certificate of registration shall be on the applicant. Decisions of the commissioner on the hearings shall be subject to review under the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5.

[Acts 1979, ch. 204, § 7; T.C.A., § 45-2007.]

45-5-205. Suspension or revocation of certificates of registration. —

(a) The commissioner may, after notice and opportunity for a hearing, suspend or revoke any certificate of registration if the commissioner finds that the registrant has knowingly or without exercising due care:

(1) Failed to pay the annual registration fee imposed by this chapter, or an examination fee imposed by the commissioner under the authority of this chapter; or

(2) Violated any provision of this chapter or of any rule or regulation issued under this chapter.

(b) A hearing shall be held on twenty (20) days' notice, in writing, setting forth the time and place and a concise statement of the facts alleged to sustain a suspension or revocation, which hearing shall be full, fair and public. The suspension or revocation and its effective date shall be set forth in a written order accompanied by conclusions of law, findings of fact and the reasons for the suspension or revocation, and a copy shall forthwith be delivered to the registrant. The order, findings, conclusions and any transcript of the evidence considered by the commissioner shall be filed with the public records of the department of financial institutions.

(c) If a registrant operates more than one (1) office, any suspension or revocation of its certificate of registration shall be directed only against the office or offices that the commissioner may find in violation of this chapter.

(d) Suspension or revocation of a certificate of registration shall not affect the validity of any existing loan contracts made under this chapter, or the validity of any investment certificates or thrift certificates issued in accordance with this chapter.

[Acts 1979, ch. 204, § 19; T.C.A., § 45-2019; Acts 1983, ch. 274, § 14; 2001, ch. 165, § 6.]

45-5-206. Lost certificates of registration — Substitutions. —

In the event that a certificate of registration issued under this chapter is lost or destroyed, the person to whom the certificate of registration was issued may, upon payment of a fee prescribed by the commissioner, obtain a substitute certificate of registration, upon furnishing proof satisfactory to the commissioner that the certificate of registration has become lost or destroyed.

[Acts 2004, ch. 747, § 11.]

45-5-207. License requirement — Sponsorship — Registrant subject to all applicable requirements and prohibitions of chapter 13 of this title — Violations — Submission of reports to the Nationwide Mortgage Licensing System and Registry. —

(a) Effective July 31, 2009, no registrant shall make a residential mortgage loan unless each individual that acts as a mortgage loan originator with respect to the loan has obtained a mortgage loan originator license under chapter 13, part 3 of this title, and has been sponsored by the registrant in accordance with subsection (b), except as follows:

(1) A registrant authorized to make residential mortgage loans on July 30, 2009, is authorized to continue doing so after July 30, 2009; provided, that each individual who acts as a mortgage loan originator with respect to any residential mortgage loan is registered with the commissioner in affiliation with that registrant on or before July 30, 2009. The excepted authority shall only continue for so long as the mortgage loan originator registration remains effective;

(2) To register a mortgage loan originator under subdivision (a)(1), the registrant must timely submit to the commissioner a nonrefundable registration fee of one hundred dollars (\$100) and a completed registration form containing any information the commissioner deems necessary, including the following:

(A) The name of the registrant for whom the mortgage loan originator provides origination services;

(B) The mortgage loan originator's name, birth date, social security number and address; and

(C) The office location where the mortgage loan originator will engage in residential mortgage loan origination services;

(3) Any mortgage loan originator timely registered with a registrant shall be considered sponsored by that registrant for purposes of subsection (b) for the term of the registration and any successive licensure;

(4) The registration of a mortgage loan originator under this section shall expire without further notice or process upon either of the following occurrences:

(A) If the mortgage loan originator ceases providing services for the affiliated registrant at the office listed in the registration form; or

(B) On December 31, 2009, unless between November 1, 2009, and December 31, 2009, the individual files an application through the Nationwide Mortgage Licensing System and Registry for a mortgage loan originator license under chapter 13, part 3 of this title, pays all licensing fees and submits fingerprints for a criminal background check. If this is timely accomplished, the registration shall remain effective until such time as the commissioner acts on the licensure application, but in no event shall the registration be valid after July 30, 2010. If the licensure application is approved, the license shall be issued for calendar year 2010; and

(5) An individual registered as a mortgage loan originator under this subsection (a) shall not be in violation of any law requiring a license to act as a mortgage loan originator for any origination services performed while the registration is effective.

(b) To sponsor a mortgage loan originator on or after July 31, 2009, a registrant must file the form with the commissioner as the commissioner prescribes and pay to the commissioner a nonrefundable sponsorship fee of one hundred dollars (\$100), which fee may be decreased or increased by rule of the commissioner. Upon determining that the individual has obtained a license under chapter 13, part 3 of this title and is not sponsored by any other registrant, mortgage lender or mortgage loan broker, the commissioner shall authorize the sponsorship. A mortgage loan originator sponsorship terminates if the sponsoring registrant's authority to make residential mortgage loans expires or is revoked or otherwise terminates, or if the mortgage loan originator ceases providing services for the registrant. A mortgage loan originator sponsorship does not terminate if the mortgage loan originator changes from one (1) office of the sponsoring registrant to another registered office of the same company. Upon any change in the mortgage loan originator's office, the sponsoring registrant shall notify the commissioner in writing within fourteen (14) days of the change.

(c) Should a mortgage loan originator sponsorship terminate, the mortgage loan originator's license shall become inactive, but shall not expire so long as the mortgage loan originator continues to meet all other requirements for licensure and renewal of licensure. An inactive license is reactivated if the mortgage loan originator obtains a new sponsorship under this section or under chapter 13, part 3 of this title. The commissioner may not approve a new sponsorship unless and until the commissioner has been notified that any prior sponsorship has terminated.

(d) The sponsoring registrant shall ensure that each application for a residential

mortgage loan contains the name and registration number of the registrant, as well as the name, signature and license number of the mortgage loan originator who provided origination services with respect to the loan. The registrant shall also ensure that the registrant's records pertaining to the residential mortgage loan contain the unique identifier, if different from the license number, of each mortgage loan originator that provided services with respect to the loan.

(e) The sponsoring registrant is responsible for and shall supervise the acts of each sponsored mortgage loan originator.

(f) A mortgage loan originator of a registrant is subject to all applicable requirements and prohibitions of chapter 13 of this title, unless otherwise stated in chapter 13 of this title.

(g) A registrant that is authorized to make residential mortgage loans is subject to investigation and examination under chapter 13 of this title, to the extent that chapter 13 of this title provides the commissioner greater or different investigatory or examination power than is authorized under this chapter.

(h) It is a violation of this chapter for a registrant to commit any of the acts or practices prohibited by § [45-13-401](#) in the making of a residential mortgage loan, as applicable.

(i) A registrant that is authorized to make residential mortgage loans shall, pursuant to order or direction of the commissioner, submit reports of condition to the Nationwide Mortgage Licensing System and Registry pertaining to its residential mortgage loan business, which shall be in the form and shall contain the information that the Nationwide Mortgage Licensing System and Registry requires.

[Acts 2009, ch. 499, § 6.]

Part 3
—Powers of Registered Companies

[45-5-301. General powers of registrants. —](#)

[45-5-302. General limitations on registrants. —](#)

[45-5-303. Names used by registrants — Rules governing advertisements. —](#)

[45-5-304. Investment certificates. —](#)

[45-5-305. Insurance. —](#)

45-5-301. General powers of registrants. —

Any registrant under this chapter has the power to:

(1) Lend money, with or without security, and to take as security real or personal property, or both;

(2) (A) Charge interest:

(i) On loans where the total amount of the loan is less than one hundred dollars (\$100) at a nominal rate not in excess of seven and one-half percent (7.5%) per annum, deducted in advance, on the total amount of the loan for the full term thereof without regard to the payment schedule; but no interest shall be charged on the loans in excess of a maximum effective rate of eighteen percent (18%) per annum;

(ii) On loans where the total amount of the loan is one hundred dollars (\$100) or more, at any rate not in excess of a maximum effective rate of twenty-four percent (24%) per annum; and

(iii) On loans made under open-end credit plans, which are plans under which a registrant contemplates repeated loans that may be without fixed maturities or limitation as to the length of term, and that are subject to prepayment at any time, at any rate not in excess of a maximum effective rate of twenty-four percent (24%) per annum;

(B) All the interest shall be contracted for and computed in accordance with § [45-5-401](#);

(3) Charge loan charges, but subject to the limitations provided in § [45-5-403](#); provided, that no loan charge shall be imposed unless a loan is made or an open-end credit plan is established or renewed for a term of not less than three (3) years;

(4) Require, at the expense of the borrower, insurance against the hazards to which any collateral used to secure the loan is subject; and upon the failure of the borrower to supply the same to procure the same, subject to § [45-5-305](#);

(5) Accept, but not require, as additional collateral at the expense of the borrower or borrowers, insurance against the hazards of death, or disability, or involuntary unemployment, or any combination thereof, of the borrower or borrowers, subject to § [45-5-305](#);

(6) Engage in the purchase, discount and rediscount of notes, security agreements or security interests or other indicia of security originating from the sale or purchase of property or services;

(7) Make loans to dealers in motor vehicles, appliances and other chattels for the purpose of acquiring, stocking and offering for sale the merchandise and to take appropriate security therefor;

(8) Purchase or otherwise acquire and sell and negotiate drafts and acceptances drawn in connection with the sale of personal property on account of the purchase price thereof and take from the acceptors or holders of the drafts and acceptances as security for the drafts and acceptances, with or without other collateral, choses in action or other evidences of indebtedness issued by it and to be paid in uniform monthly, weekly or other periodical installments;

(9) If an industrial investment company, not insured by an agency of the United States government, issue investment certificates subject to the provisions of this chapter;

(10) If an industrial bank, insured by an agency of the United States government, issue thrift certificates subject to the provisions of this chapter;

(11) Have any and all powers not specifically defined in this chapter that are granted

by the laws of this state to corporations generally, except powers that are inconsistent with the provisions of this chapter; provided, that nothing in this chapter shall be construed as limiting the power of registrants to make loans, charge interest and other charges consistent with the powers of corporations generally and subject to the limitations provided by title [47](#), chapters 14 and 15;

(12) (A) Subject to § [45-5-305](#)(b), accept or sell, but not require, at the expense of the borrower or borrowers, one (1) or more credit-related insurance products.

(B) As used in subdivision (12)(A) and § [45-5-305](#)(b), “credit-related insurance products” is limited to individual term life or individual accidental death and dismemberment insurance sold by a registrant where the:

(i) Beneficiary named by the debtor is a person other than the creditor;

(ii) Insurance is purchased by the debtor and financed as part of the credit transaction; and

(iii) Premium for the insurance is included in the principal of the loan; and

(13) Make any change among the president, chief executive officer, treasurer, or chief financial officer, or among the general partner or partners; provided that the registrant gives written notice to the commissioner within fourteen (14) days of the change and furnishes other information that the commissioner may require.

[Acts 1979, ch. 204, § 8; T.C.A., § 45-2008; Acts 1983, ch. 164, § 1; 1983, ch. 274, § 15; 1985, ch. 107, § 5; 1987, ch. 124, § 1; 1991, ch. 87, § 1; 1993, ch. 100, § 1; 1999, ch. 172, § 1; 2001, ch. 165, § 7.]

45-5-302. General limitations on registrants. —

No registrant under this chapter has the power to:

(1) Receive deposits of money subject to check, payable on demand, or payable unconditionally at a fixed time; or to use the word “bank” or “banking,” “trust company” or other term commonly used to describe a banking corporation in its name; or to accept trusts or act as administrator, executor, testamentary or judicial trustee in any form;

(2) Make any loan for an original principal sum of three hundred dollars (\$300) or less for a term in excess of twenty-four (24) months, or make any loan for an original principal sum of more than three hundred dollars (\$300) but less than one thousand dollars (\$1,000) for a term in excess of thirty-six (36) months, but the term of any other loan shall be as the parties may contract, but not for a term in excess of one hundred eighty-one (181) months with respect to any loan subject to the limitations provided in this chapter as to interest and loan charges;

(3) Make any loan to one (1) person, firm or corporation for more than ten percent (10%) of the amount of the stated capital and surplus of the registrant, except that this limitation shall not apply to loans made pursuant to § [45-5-301](#)(7); nor shall this limitation apply to a registrant that does not issue, sell and have outstanding investment or thrift certificates;

(4) Require the purchase of its investment or thrift certificates by a borrower simultaneously with a loan transaction;

(5) Deposit any of its funds with any other corporation unless the corporation has been designated as the depository by a vote of the majority of the directors, exclusive of any director who is an officer, director or trustee of the depository so designated, present at a meeting duly called at which a quorum is in attendance; provided, that this subdivision (5) shall not apply to proprietorships or partnerships;

(6) Move an office until five (5) days' notice of the registrant's intention to move has been given to the commissioner, who shall endorse the new address on the certificate of registration;

- (7)** Take an instrument in which blanks are left to be filled in after the loan is made;
- (8)** Accept or procure willfully and knowingly a false financial statement from a borrower;
- (9)** Use any unreasonable collection tactics, which include, but are not limited to, any conduct by the registrant or any employee or agent of the registrant that:
- (A)** Causes the borrower or any member of the borrower's family to suffer bodily injury or physical harm;
 - (B)** Constitutes a willful or intentional trespass by force of the borrower's home or the borrower's personal property therein, without process of law;
 - (C)** Holds up the borrower to public ridicule or unreasonably degrades the borrower in the presence of the borrower's neighbors or business associates;
 - (D)** Uses, distributes, employs or mails any document, paper or instrument purporting to be a summons, warrant, notice or other process, or copy thereof, issued by a court or other public authority; or
 - (E)** Although otherwise lawful, occurs at an unreasonable hour of the night. Attempts to make collections by means of personal visits, telephone calls and the like shall be deemed to occur at an unreasonable hour of the night if they occur between the hours of ten o'clock p.m. (10:00 p.m.) and five o'clock a.m. (5:00 a.m.);
- (10)** Publish or distribute or cause to be published or distributed any false or misleading advertising; or

(11) Use multiple agreements, including those with affiliated lenders, with the intent to obtain a higher effective rate of interest or greater charges than would otherwise be authorized by this chapter.

[Acts 1979, ch. 204, § 13; T.C.A., § 45-2013; Acts 1983, ch. 274, § 16; 1986, ch. 576, § 1; 1991, ch. 87, § 2.]

45-5-303. Names used by registrants — Rules governing advertisements. —

(a) Every registrant under this chapter may use the words “industrial loan and thrift company” or any part of those words in its corporate name. It is unlawful for any registrant organized after July 1, 1968, and qualified under the provisions of this chapter, to use as a part of its company name the words “savings and loan.” Each company organized prior to July 1, 1968, and using such words as part of its corporate name, as a condition precedent to its registration or reregistration under this chapter, shall agree to include with each use of its corporate name in advertising the issuance and sale of certificates of investment, in lettering at least two thirds (2/3) the size of the lettering in its name and directly beneath its name so as to be plainly visible, the following addendum: “not federally insured.”

(b) Nothing in this chapter shall be construed to deny the use or alteration of any name of any company registered under the former Industrial Loan and Thrift Companies Act on July 1, 1979.

(c) The commissioner is authorized and directed to adopt rules governing the advertisements of registrants under this chapter in order to prevent confusion as to the different categories of registrants under this chapter and between the registrants and other financial institutions.

[Acts 1979, ch. 204, § 14; T.C.A., § 45-2014; Acts 1983, ch. 274, § 17; 1989, ch. 591, § 113.]

45-5-304. Investment certificates. —

(a) A registrant shall not issue investment certificates until:

(1) The registrant has qualified as an industrial investment company and furnishes evidence to the commissioner that it meets the capital requirements specified in § [45-5-603](#);

(2) The registrant gives notice to the commissioner that the registrant intends to issue investment certificates, which notice shall specify the number and total dollar amount of certificates to be offered and the terms of the offering;

(3) The registrant files the forms, documents, and receipts to be used by the registrant with the commissioner; and

(4) The registrant furnishes proof that the offering and sale of the investment certificates is covered by an effective registration under the Tennessee Securities Act, compiled in title [48](#), chapter 2, part 1, or that the securities division of the department of commerce and insurance has reviewed the proposed offering and determined that it is exempt from registration.

(b) A registrant may use the forms, documents and receipts that have been filed with the commissioner until the commissioner gives the registrant notice that they do not meet the requirements of this chapter or that the registrant has not complied with other applicable laws.

(c) Each investment certificate shall have printed thereon in at least ten-point bold-face type the following: “not federally insured.”

(d) Except with the prior written approval of the commissioner, a registrant shall use the proceeds from the issuance and sale of investment certificates only in the conduct of its business.

(e) A registrant shall not use the terms “banking hours,” “banking room,” or other similar banking terms in connection with advertising the issuance and sale of investment certificates. Each piece of the advertisement shall bear the full name of the registrant.

[Acts 1979, ch. 204, § 15; T.C.A., § 45-2015; Acts 1983, ch. 274, § 18.]

45-5-305. Insurance. —

(a) With respect to all insurance offered, sold or procured pursuant to the powers given registrants under § [45-5-301](#)(4) and (5):

(1) The insurance shall be written by an agent and with a company authorized to do business in Tennessee, or under a group policy issued by a company authorized to do business in Tennessee, at rates approved by the commissioner of commerce and insurance;

(2) The borrower has the right to furnish the insurance through any agent or company the borrower desires, if the insurance company is in good standing with the department; or the borrower may authorize the registrant to obtain the insurance for the borrower, and when so authorized by written request, which writing shall be preserved by the company during the term of the loan and for a period of at least two (2) years thereafter, the registrant may have the insurance written by an agent who is an employee, servant, or agent of the registrant, or the insurance may be effected under a group policy issued to the registrant. Any gain or advantage to a registrant or any employee, officer, director, agent, affiliate or associate of the registrant from the insurance or its sale shall not be considered as additional or further charge or interest in connection with any loan made under this chapter; and

(3) The amount and type of insurance that may be required or accepted shall bear a reasonable relation to the existing hazard and risk of loss and shall be subject to the following terms and conditions:

(A) Life insurance shall be in an amount that does not exceed the total amount of the loan and shall be for a period that does not exceed the term of the loan;

(B) Insurance against the hazard of disability of the borrower shall provide equal benefits, the total of all of which shall not exceed the total amount of the loan and shall not be payable beyond the maturity of the loan. The required time of continuous and total disability of the borrower before the beginning of the payment of benefits under the terms of the policy shall be at least seven (7) days, after which time benefits may accrue from then forward or may be retroactive to the first day of disability. Nothing in this subdivision (a)(3)(B) shall be construed to prevent the issuance of insurance requiring more than seven (7) days waiting period;

(C) Property insurance on collateral required pursuant to § [45-5-301](#)(4) shall include only coverage that bears a reasonable relationship to the existing hazards or risk of loss in an amount not in excess of the total amount of the loan or for a term not longer than the term of the loan. If a minimum dollar premium is charged or retained, the total amount so charged to or retained from a borrower or spouse or both by a lender and affiliated lenders in any one (1) year shall not exceed the minimum dollar premium approved by the commissioner of financial institutions for that type of insurance. Neither shall the insurance be required during a period of time when there is adequate property insurance in force that was written in connection with any loan made by the same registrant or an affiliated lender to the same borrower or spouse, or both;

(D) Insurance against the hazard of involuntary unemployment shall provide for a specified number of monthly benefit payments during a specified term of coverage expressed in number of months; provided, that the term of coverage shall not exceed sixty (60) months, and the number of monthly benefit payments shall be at least one third (1/3) the number of months in the term of coverage;

(E) A registrant that obtains a group policy for the purpose of perfecting any insurance that may be required or accepted hereunder, or that obtains any life, disability, property, or involuntary unemployment insurance described in subdivisions (a)(3)(A)-

(D), at the request of the borrower, shall contract with the insurance company for a provision in the policy that the coverage effected as to each individual insured debtor or borrower shall terminate automatically on prepayment in full of the loan by refinancing, renewal or otherwise, and the unearned premium shall be refunded to the registrant. The registrant shall pay or credit the unearned premium refund to the borrower. Only one (1) policy or group certificate of each of these types of insurance shall be accepted as collateral on any one (1) loan, except in the case of joint life insurance, and except in the case of joint disability insurance;

(F) At the time the loan is made, the lender shall give to the borrower:

(i) An insurance policy, a binder, or a certificate of insurance; or

(ii) A memorandum showing the name of the insurance company, the types of insurance issued, a description of the coverages, the date of the policy, which shall be the date on which the loan is made, the premium charge for each type of insurance, and if issued under a group policy, the number of the master policy;

(G) If the premiums for insurance are paid from the proceeds of the loan, the amount so paid shall not exceed the premiums charged by the insurer for the insurance; and

(H) In addition to the provisions of this chapter, registrants shall have the power to accept or sell credit life and credit health and accident insurance pursuant to and in accordance with title [56](#), chapter 7, part 9.

(b) The acceptance or sale of credit-related insurance products by registrants shall be subject to the following provisions:

(1) The maximum term life insurance coverage and the maximum accidental death or dismemberment coverage available to one insured through a registrant shall not exceed twenty-five thousand dollars (\$25,000) for each coverage, and the maximum term for each credit-related life insurance product shall not exceed sixty (60) months;

(2) The registrant shall provide to each prospective insured a separate disclosure statement, signed by both the borrower or borrowers and the registrant's agent indicating the following:

(A) The borrower's or borrowers' desire or desires to purchase the insurance as described in the disclosure statement;

(B) The borrower or borrowers fully understand that buying the insurance is not a condition of the loan. The disclosure shall be made in bold face print appearing in the disclosure statement. In addition, notice of the disclosure shall be posted at any physical location where customers are served;

(C) The owner of the policy may cancel the policy within thirty (30) days after the policy is issued and receive a full refund of the premium paid, by returning the policy to the insurer or upon written instructions to the insurer from the policy owner;

(D) The owner of the policy may also cancel the policy more than thirty (30) days after the policy has been issued by giving notice of cancellation to the insurer, and on cancellation, the owner of the policy shall receive a portion of the premium paid in accordance with the terms of the policy; and

(E) A statement with three (3) representative examples of the purchase of insurance under this section indicating the total amount of interest payable for each example of a loan and the amount of interest of the loan attributable to the insurance purchased under this section; and

(3) Credit-related insurance products shall be treated as credit life insurance or credit accident and health insurance only as those terms are used in title [56](#), chapter 6, part 2 and title [56](#), chapter 8, part 1; credit-related insurance products shall not be treated as credit life insurance, credit accident and health insurance or credit disability insurance as those terms are otherwise used in title [56](#); provided, that this subsection (b) shall not affect any other provision of title [56](#), or any regulation adopted pursuant thereto. [Acts 1979, ch. 204, § 12; T.C.A., § 45-2012; Acts 1985, ch. 107, § 5; 1993, ch. 100, § 2; 1994, ch. 588, § 1; 1999, ch. 172, § 2.]

Part 4
—Interest and Borrowers

45-5-401. Contracts for interest — Computation. —

45-5-402. Changes in payment schedules — Prepayments — Deferrals. —

45-5-403. Limitations on loan charges — Acquisition charges — Term of loan. —

45-5-404. Remedies of borrowers — Defenses — Limitations of actions. —

45-5-405. Interest on judgments. —

45-5-401. Contracts for interest — Computation. —

(a) (1) With respect to loans where the total amount of the loan is less than one hundred dollars (\$100), this chapter permits, but does not require, interest to be contracted for by way of discount; interest may also be contracted for at an effective rate that results in the same amount being paid as if interest had been contracted by way of discount at a nominal rate not in excess of the maximum nominal rate specified in § [45-5-301](#)(2) for loans of this category, always subject to the maximum effective rate provided in § [45-5-301](#)(2) for loans of this category.

(2) With respect to loans where the total amount of the loan is one hundred dollars (\$100) or more, this chapter does not limit or restrict the manner or method of contracting for interest, whether by way of add-on, discount, or otherwise, so long as the maximum effective rate of interest for loans of this category does not exceed that authorized by § [45-5-301](#)(2) for the loans.

(3) With respect to loans made under open-end credit plans, interest shall be computed on the principal balance unpaid from time to time, always subject to the maximum effective rate provided in § [45-5-301](#)(2) for loans of this category.

(b) In any event, the maximum effective rate of interest on a loan shall:

(1) Be determined in accordance with the actuarial method;

(2) In the case of precomputed interest, be calculated and determined as of the date of the loan on the assumption that all scheduled payments will be made as contracted; and

(3) Not be affected by the prepayment of the loan, in whole or in part.

(c) Interest may be contracted for on the unpaid balance due after the maturity date of the loan:

(1) Where the total amount of the loan is less than one hundred dollars (\$100), at an effective rate not to exceed eighteen percent (18%) per annum;

(2) Where the total amount of the loan is one hundred dollars (\$100) or more, at an effective rate not to exceed twenty-four percent (24%) per annum; and

(3) Where the loan is made under an open-end credit plan, at an effective rate not to exceed twenty-four percent (24%) per annum.

(d) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded and, for any period less than a month, each day may be counted as one thirtieth ($\frac{1}{30}$) of a month.

[Acts 1979, ch. 204, § 9; T.C.A., § 45-2009; Acts 1983, ch. 164, § 2.]

45-5-402. Changes in payment schedules — Prepayments — Deferrals. —

(a) With respect to loans where the total amount of the loan is less than one hundred dollars (\$100):

(1) If the loan is precomputed and is prepaid in full, by refinancing or otherwise, more than thirty (30) days prior to its original maturity date, the borrower shall be entitled to receive a refund, or a refund credit, of any precomputed interest charge in an amount at least equal to the following:

(A) If the loan is payable in periodic installments, an amount on each installment for the time each installment is so paid in advance of its due date at the maximum authorized nominal rate; or

(B) If the loan is not payable in installments, an amount equal to that required in subdivision (a)(1)(A) and computed as if the loan was paid in consecutive equal monthly installments; and

(2) No prepayment refund of less than one dollar (\$1.00) need be made.

(b) With respect to loans where the total amount of the loan is one hundred dollars (\$100) or more:

(1) Unless the parties to the transaction otherwise agree in writing, the installment loans shall be paid in accordance with the schedule of payments provided in the loan contract. The parties may, however, agree that the loan may be prepaid or that the payment of all or part of one (1) or more unpaid installments may be deferred, subject, however, to the limitations provided in this section;

(2) In the event of prepayment in full, by refinancing or otherwise, of the installment loan:

(A) (i) With respect to a precomputed transaction that has an original term of sixty-one (61) months or less and that is scheduled to be repaid in substantially equal successive installments at approximately equal intervals, the amount required to prepay shall be the outstanding balance as of the applicable scheduled installment date; provided, that the borrower shall be entitled to a refund or credit of interest, the amount of which shall be no less than the amount computed in accordance with the Rule of 78, as follows: the amount of the refund or credit shall be as great a proportion of the total interest originally contracted for as the sum of the periodic time balances of the loan scheduled to follow the applicable scheduled installment date bears to the sum of all the periodic time balances of the loan, both sums to be determined according to the schedule of payments originally contracted for. The applicable scheduled installment date shall be the scheduled installment date next following the actual date of payment unless

payment is made on a scheduled installment date, in which case the date of payment shall be the applicable scheduled installment date;

(ii) With respect to a precomputed transaction that has an original term of more than sixty-one (61) months and that is scheduled to be repaid in substantially equal successive installments at approximately equal intervals, the amount required to prepay shall be the outstanding balance as of the date of prepayment; provided, that the borrower shall be entitled to a refund or credit of interest, the amount of which shall be no less than the amount computed in accordance with the actuarial method;

(B) In a transaction not covered by subdivision (b)(2)(A), the amount required to prepay shall be the outstanding balance as of the date of payment, including any earned interest unpaid as of that date;

(C) Where the amount of the refund credit is less than one dollar (\$1.00), no refund credit shall be made. Any refund credit in the amount of one dollar (\$1.00) or more may be made in cash or credit to the outstanding indebtedness of the borrower;

(D) If the indebtedness created by the installment loan is fully satisfied prior to maturity through surrender of any collateral securing the loan, repossession of collateral, or any judgment, the outstanding obligation of the borrower shall be determined as provided in either subdivision (b)(2)(A) or (B), as may be appropriate, computed as of the date the registrant recovers the value of the collateral through disposition of the collateral, or the date judgment is entered in favor of the registrant, or, if the registrant elects to keep the collateral in satisfaction of the indebtedness, as of the date the registrant takes possession of the collateral. In the case of a precomputed transaction, if the date is other than a scheduled payment date, the next following scheduled payment date shall be used in the computation; and

(3) The parties may, at any time, agree to a deferral of all or part of one (1) or more unpaid installments, and the registrant on the agreement may make and collect a charge for the deferral, subject to the following provisions:

(A) A deferral postpones the scheduled due date of an installment or installments as originally scheduled, or as previously deferred, for the deferment period;

(B) The deferment period is that period of time for which the payment is or the payments are deferred;

(C) The deferral charge shall not exceed an amount equal to the result of applying the effective rate of interest provided in the original agreement between the parties, to the amount deferred for the deferment period, calculated without regard to differences in the lengths of months, but proportionately for a part of a month, counting each day as one thirtieth ($\frac{1}{30}$) of a month. A deferral charge is earned pro rata during the deferment period and is fully earned on the last day of the deferment period;

(D) If a loan is prepaid in full during a deferment period, then the registrant shall make or credit to the borrower a refund of the unearned deferral charge in addition to any other refund or credit made for prepayment in full;

(E) A deferral charge may be collected at the time it is assessed or at any time thereafter;

(F) Any payment received at the time of the deferment may be applied first to the deferral charge and the remainder, if any, to the unpaid balance of the loan, but if the payment is sufficient to pay, in addition to the appropriate delinquency charge, any installment that is in default, it shall be first so applied, and the installment shall not then be deferred or be subject to the deferral charge;

(G) No installment on which a delinquency charge has been collected shall be deferred or included in the computation of the deferral unless the delinquency charge is refunded to the borrower or credited to the deferral charge;

(H) In addition to the deferral charge, the registrant may make appropriate additional charges as provided in this chapter. The amount of the charges that are not paid in cash may be added to the amount deferred for the purpose of calculating the deferral;

(I) The deferral agreement shall be evidenced in writing, which shall include:

(i) The amount of the deferral charge;

(ii) The amount or amounts deferred;

(iii) The date to which, or the time period for which, payment is deferred; and

(iv) The nature and amount of any other charges made at the time;

(J) No deferral charge may be made for a period after the date that the registrant elects to accelerate the maturity of the loan; and

(K) An agreement to a deferral shall not affect the determination of the length of the term of the loan under § [45-5-302](#)(2).

[Acts 1979, ch. 204, § 10; T.C.A., § 45-2010; Acts 1983, ch. 164, § 3; 1988, ch. 705, § 1.]

45-5-403. Limitations on loan charges — Acquisition charges — Term of loan. —

(a) No registrant under this chapter has the power to charge loan charges other than, or in amounts greater than, the following:

(1) (A) Registrants may charge a service charge in an amount equal to four percent (4%) of the total amount of the loan, which charge may be deducted in advance from the principal of the loan. This service charge shall be in lieu of all other compensation for services, expenses, detriments or commitments directly incident to the loan, except those charges that are otherwise specifically provided in this chapter. This charge is authorized and limited on the basis that it is generally reasonably related to the total costs and expenses that it is designed to cover, and in order to make the amount of the charges more certain and readily ascertainable by the registrants, their borrowers and the commissioner; and to that end, registrants shall not be required to maintain detailed records with respect to the services, expenses, detriments or commitments covered by the charges. This charge shall not, however, be imposed on that portion of a loan used to pay any existing loan or part thereof owing by the same borrower or spouse, or both, to the same registrant or any affiliated lender;

(B) In the case of open-end credit plans or in the case of loans secured by real property, in lieu of the four percent (4%) service charge provided in subdivision (a)(1)(A), registrants may charge borrowers with the actual, bona fide, reasonable expenses, directly incident to the loan, paid or to be paid by the registrant to third parties, including, but not limited to, expenses for title examination or title insurance, surveys, preparation of necessary documents, credit reports and appraisals;

(2) In lieu of the four percent (4%) service charge provided in subdivision (a)(1)(A), and for the same purposes, registrants may charge:

(A) A flat service charge of two dollars (\$2.00) on all loans that do not exceed twenty dollars (\$20.00), and charge a flat service charge in addition thereto of fifty cents (50¢) per each five dollar (\$5.00) increase on all loans in excess of twenty dollars (\$20.00) but that do not exceed one hundred dollars (\$100), and to charge a flat service charge of ten dollars (\$10.00) on all loans of more than one hundred dollars (\$100); provided, that no lender may charge the flat service charge on multiple loans existing at the same time to any one (1) borrower;

(B) In the event the borrower shall repay the loan in full within three (3) business days following the date of the loan, then all charges of every kind shall be refunded in cash; provided, that in the event a loan on which a flat service charge has been made shall be renewed, rescheduled or refinanced within forty-five (45) days of the date of the making of the loan, the flat service charge in connection with any new moneys advanced shall not exceed one half (½) of the flat service charge that would be applicable thereto; and

(C) It being the intent of the general assembly that the flat service charges permitted hereunder shall never be imposed on any portion of any loan used to pay any existing loan, or part thereof, owing by the same borrower or spouse or both to the same registrant or any affiliated lender;

(3) Registrants may also charge the borrower with any fees or taxes paid, or to be paid, any public official for filing, recording or releasing any document relating to the loan. In lieu of charging the borrower with any fees for filing or recording any document relating to the loan, registrants may charge the borrower with any premiums payable for insurance in lieu of filing or recording the document; provided, that the premium shall not exceed the current fee for filing or recording the document. Moreover, the sum shall not be charged more than one (1) time during any twelve-month period;

(4) Registrants may also charge a handling or delinquent charge of five cents (5¢) for each default in the payment of each one dollar (\$1.00), or fraction thereof, or fifteen dollars (\$15.00), whichever is greater, at the time any payment on any loan made hereunder becomes past due for a period of five (5) or more days; provided, that the charge shall not be collected more than once for the same default;

(5) (A) Registrants may also charge an installment maintenance fee of:

(i) Two dollars and fifty cents (\$2.50) per month on loans where the total amount of the loan is less than one hundred dollars (\$100);

(ii) Three dollars and fifty cents (\$3.50) per month where the total amount of the loan is one hundred dollars (\$100) or more but not more than seven hundred fifty dollars (\$750);

(iii) Three dollars (\$3.00) per month where the total amount of the loan is more than seven hundred fifty dollars (\$750) but not more than one thousand two hundred fifty dollars (\$1,250); and

(iv) Two dollars and fifty cents (\$2.50) per month where the total amount of the loan is more than one thousand two hundred fifty dollars (\$1,250);

(B) The fee may be charged for a period not to exceed the original term of the loan; provided, that the loan is made for a period of ninety (90) days or more; and provided further, that the monthly installment payments are at least fifteen dollars (\$15.00) per month. No registrant may charge the installment maintenance fee on multiple loans existing at the same time to any one (1) borrower. The installment maintenance fees shall not be deducted in advance. Registrants may, however, include the maximum maintenance fee for the term of the loan in the face amount of the note evidencing that loan; provided, that neither interest, loan charges, delinquent charges nor insurance charges are computed on the amount; and provided further, that any installment maintenance fee due more than one (1) month following payment in full of the note shall be credited to the note;

(6) Registrants may also require the payment by the borrower of any reasonable and actual attorneys' fees and other costs incurred in the collection or enforcement of any loan contract;

(7) Registrants may also charge and collect from the borrower, through regular billing procedure or otherwise, a bad check charge as provided in § [47-29-102](#) for any check, draft, negotiable order of withdrawal or like instrument drawn on a bank or other depository institution given by any person in full or partial repayment of a loan or other extension of credit if the instrument is not paid or dishonored by the institution; provided, that:

(A) Registrants may redeposit the instrument with the institution or return the dishonored instrument to the borrower or person to whom the credit was extended upon redemption of the instrument; and

(B) Registrants may collect not more than one (1) bad check charge on any one (1) check; and

(8) In the case of a residential mortgage loan, a registrant may, from the service

charge imposed under subdivision (a)(1)(A), pay a mortgage broker, licensed or otherwise exempt from licensing under the Residential Lending Brokerage and Servicing Act, compiled in title [45](#), chapter 13, a fee for the services actually rendered by the mortgage broker with respect to a specific transaction; provided, however, that the aggregate fee paid to a mortgage broker may not exceed the four percent (4%), which may be imposed under subdivision (a)(1)(A).

(b) (1) As an alternative to the loan charges permitted under subsection (a) and interest permitted under § [45-5-301](#), a registrant may charge loan charges in amounts no greater than, the following:

(A) On any loan of an amount of one hundred dollars (\$100) or more up to and including the amount of three hundred dollars (\$300), there shall be allowed an acquisition charge for making the loan not in excess of seven and one-half percent (7.5%) of the amount of the principal. In addition thereto, an installment account handling charge shall be allowed not to exceed twelve dollars (\$12.00) per month;

(B) On any loan of an amount in excess of three hundred dollars (\$300) but not more than four hundred dollars (\$400), there shall be allowed an acquisition charge for making the loan not in excess of seven and one-half percent (7.5%) of the amount of the principal. In addition thereto, an installment account handling charge shall be allowed not to exceed fourteen dollars (\$14.00) per month;

(C) On any loan of an amount in excess of four hundred dollars (\$400) but not more than five hundred dollars (\$500), there shall be allowed an acquisition charge for making the loan not in excess of seven and one-half percent (7.5%) of the amount of the principal. In addition thereto, an installment account handling charge shall be allowed not to exceed sixteen dollars (\$16.00) per month;

(D) On any loan of an amount in excess of five hundred dollars (\$500) but not more than eight hundred dollars (\$800), there shall be allowed an acquisition charge for making the loan not in excess of seven and one-half percent (7.5%) of the amount of the principal. In addition thereto, an installment account handling charge shall be allowed not to exceed seventeen dollars (\$17.00) per month; or

(E) On any loan of an amount in excess of eight hundred dollars (\$800) but not more than one thousand dollars (\$1,000), there shall be allowed an acquisition charge for making the loan not in excess of seven and one-half percent (7.5%) of the amount of the principal. In addition thereto, an installment account handling charge shall be allowed not to exceed twenty dollars (\$20.00) per month.

(2) The minimum term of any loan made under this subsection (b) is three (3) months. The maximum term of any loan made under this subsection (b) is twelve (12) months.

(3) On the prepayment of any loan under this subsection (b), the installment account handling charges are subject to § [45-5-402](#) as it relates to refunds; provided, for the purpose of calculating the rebate due, the term of the loan begins on the date the loan is made.

(4) On any loan established under this subsection (b), no insurance charge or any other charge of any nature whatsoever is permitted except as provided in this subsection (b) and except for the delinquent charge under subdivision (a)(4) of this section, the reasonable attorney fee and costs charge under subdivision (a)(6) of this section and the bad check charge under subdivision (a)(7) of this section.

(5) In a civil action, a finding by the court that a registrant has violated this subsection (b) gives rise to a rebuttable presumption that the violation constitutes unconscionable conduct under § [47-14-117\(c\)](#), and the registrant is subject to the remedies under that section.

(6) The loan charges allowed under this subsection (b) may not be imposed on a loan to a borrower who has one (1) or more loans outstanding with the same registrant or an affiliated lender and upon which loan charges were imposed under subsection (a).

[Acts 1979, ch. 204, § 11; T.C.A., § 45-2011; Acts 1983, ch. 164, § 4; 1986, ch. 576, § 2, 3; 1987, ch. 124, § 2; 1988, ch. 621, § 1; 1989, ch. 265, § 1; 1990, ch. 685, § 1; 1996, ch. 607, §§ 1-4; 1998, ch. 576, § 1; 1999, ch. 172, § 3; 2000, ch. 684, § 1; 2001, ch. 165, § 8; 2006, ch. 563, § 1; 2009, ch. 499, § 7.]

45-5-404. Remedies of borrowers — Defenses — Limitations of actions. —

The remedies of borrowers, the limitations on actions of borrowers, the defenses available to borrowers and to registrants, and the procedures applicable in the actions with respect to interest and loan charges under this chapter shall be those as prescribed by the general statute pertaining to interest and other charges by lenders or creditors.

[Acts 1979, ch. 204, § 21; T.C.A., § 45-2021.]

45-5-405. Interest on judgments. —

When a judgment is based on a note or loan contract hereunder fixing a rate of interest within the limits provided herein, that judgment shall bear interest at the rate so fixed.

[Acts 1979, ch. 204, § 22; T.C.A., § 45-2022.]

Part 5
—Supervision by Commissioner

[45-5-501. Supervision by commissioner — Powers of commissioner. —](#)

[45-5-502. Inspection and examination fees. —](#)

[45-5-503. Annual reports of registrants — Reports by commissioner to governor and general assembly. —](#)

[45-5-504. Violations — Cease and Desist Orders — Penalties. —](#)

[45-5-505. Change of control. —](#)

[45-5-506. Bar from industry. —](#)

[45-5-507. Filing of written report with commissioner — Events impacting activities of registrant. —](#)

[45-5-508. Preservation of records — Reproduction. —](#)

[45-5-509. Consent orders. —](#)

45-5-501. Supervision by commissioner — Powers of commissioner. —

- (a) Each registrant shall be subject to the supervision of the commissioner.
- (b) The commissioner is authorized to make and enforce reasonable rules and regulations necessary and proper for the administration, enforcement and interpretation of the provisions of this chapter.
- (c) In adopting the rules and regulations, the commissioner shall follow the procedures set forth in the Uniform Administrative Procedures Act, compiled in title [4](#), chapter 5. A copy of every rule and regulation shall be mailed to each registrant at least thirty (30) days prior to the date it shall take effect.
- (d) The commissioner, for the purpose of discovering violations of this chapter and for the purpose of determining whether persons are subject to the provisions of this chapter, is authorized to examine the registrants, including all books, records and papers employed by the registrants in the transaction of their business, and to summon witnesses and examine them under oath, concerning matters relating to the business of the persons or other matters that may be relevant in the discovery of violations of this chapter. The commissioner may employ deputies and assistants who may be necessary for this purpose, and the deputies and assistants shall be vested with the same authority conferred upon the commissioner by this subsection (d).

[Acts 1979, ch. 204, § 16; T.C.A., § 45-2016; Acts 1983, ch. 274, § 19; 1985, ch. 107, § 5; 2004, ch. 747, § 12.]

45-5-502. Inspection and examination fees. —

Each registrant shall pay the reasonable and actual expenses for any inspection or compliance examination conducted under this chapter. The fees shall be payable in

addition to other fees and taxes now required by law and shall be expendable receipts for the use of the commissioner in defraying a portion of the cost of administration of this chapter. In addition to the inspection and compliance examination fees, the registrant shall pay to the commissioner the actual expenses incurred for out-of-state examination and inspection of books and records and papers maintained by the registrant out of state.

[Acts 1979, ch. 204, § 17; T.C.A., § 45-2017; Acts 1981, ch. 416, § 3; 1984, ch. 698, § 1; 1986, ch. 576, § 4; 2004, ch. 747, § 13.]

45-5-503. Annual reports of registrants — Reports by commissioner to governor and general assembly. —

(a) Each registrant shall file an annual report with the commissioner by July 31 of each year, containing the following information:

- (1) The names and addresses of persons owning controlling interest in the registrant;
- (2) The location of all places of business operated by the registrant and the nature of the business conducted at each location;
- (3) The names and addresses of all affiliated lenders and affiliated insurance companies doing business in this state;
- (4) Balance sheets, statements of income and expense, summaries of the types of loans made, and other statistical information that may reasonably be required by the commissioner, consistent with generally accepted accounting practices, for the purpose of determining the general results of operations under this chapter; and
- (5) If the registrant is a corporation, the names and addresses of its officers and directors, or if the registrant is a partnership, the names and addresses of the partners.

(b) If the registrant holds two (2) or more certificates of registration or is affiliated with other registrants, a composite report may be filed, but may not be required.

(c) The reports shall be filed in a form that may reasonably be required by the commissioner and shall be sworn to by a responsible officer of the registrant. The commissioner is encouraged to adopt forms for the reports consistent with any system uniform with other states.

(d) The commissioner shall prepare and submit to the governor and the general assembly, annually, an analysis and recapitulation of the reports for the preceding calendar year for the purpose of reflecting the general results of operations under this chapter.

[Acts 1979, ch. 204, § 18; T.C.A., § 45-2018.]

45-5-504. Violations — Cease and Desist Orders — Penalties. —

If, after notice and opportunity for a hearing, the commissioner finds that a person has violated this chapter, or any administrative rule issued pursuant to this chapter, the commissioner may take any or all of the following actions:

(1) Order the person to cease and desist violating this chapter or any administrative rule issued pursuant to this chapter;

(2) Require the refund of any interest, fees, or charges collected by the person in violation of this chapter or any administrative rule issued pursuant to this chapter; and

(3) Order the person to pay the commissioner a civil monetary penalty of not more

than ten thousand dollars (\$10,000) for each violation of this chapter or administrative rule issued pursuant to this chapter.

[Acts 1979, ch. 204, § 20; T.C.A., § 45-2020; Acts 2004, ch. 747, § 14.]

45-5-505. Change of control. —

(a) A change in control of a registrant shall require thirty (30) days prior notice in writing to the commissioner. However, in the case of a publicly traded corporation, notification shall be made in writing within thirty (30) days of a change or acquisition of control of a registrant.

(b) Upon notification, the commissioner may require information deemed necessary to determine whether an application for registration is required. The commissioner may waive the filing of an application if, in the commissioner's discretion, the change in control does not pose any risk to the interests of the public.

(c) Whenever control of a registrant is acquired or exercised in violation of this section, the registration of the registrant shall be deemed revoked as of the date of the unlawful acquisition of control. The registrant, or its controlling person, shall surrender the registration to the commissioner on demand.

[Acts 2001, ch. 165, § 9.]

45-5-506. Bar from industry. —

(a) If the crime or civil or administrative judgment involved any offense reasonably

related to the qualifications, functions, or duties of a person engaged in the business in accordance with this chapter, the commissioner, after notice and opportunity for hearing, may censure, suspend for a period not to exceed twelve (12) months, or bar a person from any position of management, control, employment or providing services for any registrant or other person subject to the commissioner's jurisdiction, if the commissioner finds that the:

(1) Censure, suspension or bar is in the public interest and that the person has committed or caused a violation of this chapter, a rule or regulation, or an order of the commissioner; or

(2) Person has been:

(A) Convicted of or pled guilty to or nolo contendere to any crime; or

(B) Held liable in any civil action by final judgment, or any administrative judgment by any public agency.

(b) Persons suspended or barred under this section are prohibited from participating in any business activity of a registrant and from engaging in any business activity on the premises where a registrant is conducting its business. This subsection (b) shall not be construed to prohibit suspended or barred persons from having their personal transactions processed by a registrant.

(c) This section shall apply to any violation, conviction, plea, or judgment after July 1, 2001.

[Acts 2001, ch. 165, § 9; 2004, ch. 747, § 15.]

45-5-507. Filing of written report with commissioner — Events impacting activities of registrant. —

Within fifteen (15) days of the occurrence of any one (1) of the events listed in this section, a registrant shall file a written report with the commissioner describing the event and its expected impact on the activities of the registrant:

- (1) The filing for bankruptcy or reorganization by the registrant;
- (2) The institution of revocation or suspension proceedings against the registrant by any state or governmental authority;
- (3) The denial of the opportunity to engage in business by any state or governmental authority;
- (4) Any felony indictment of the registrant or any of its officers, directors or principals, or partners;
- (5) Any felony conviction of the registrant or any of its officers, directors, principals, or partners; and
- (6) Other events that the commissioner may determine and identify by rule.

[Acts 2001, ch. 165, § 9.]

45-5-508. Preservation of records — Reproduction. —

All books and records required to be preserved by any regulation of the commissioner or required by any federal statute, regulation, or regulatory guideline, as applicable to each registrant, shall be preserved and made available to the commissioner, as provided in this chapter, for a period of twenty-five (25) months on all rejected applications and for a period of twenty-four (24) months on loans paid in full. The registrant may cause any or all records at any time in its custody to be reproduced or preserved, or both, by itself or by any other person who agrees in writing to submit its operations to the examination of the commissioner to the extent that the operations directly affect recordkeeping by any microphotographic process, electronic or mechanical data storage technique or any other means. A record reproduced or preserved, or both, by those processes, techniques or means shall have the same force and effect as the original record and be admitted into evidence equally with the original.

[Acts 2001, ch. 165, § 9.]

45-5-509. Consent orders. —

(a) The commissioner may enter into consent orders at any time with any person to resolve any matter arising under this chapter. A consent order shall be signed by the person to whom it is issued, or a duly authorized representative, and shall indicate agreement to the terms contained in the consent order. A consent order need not constitute an admission by any person that any provision of this chapter, or any rule, regulation or order promulgated or issued under this chapter has been violated, nor need it constitute a finding by the commissioner that the person has violated any provision of this chapter or any rule, regulation or order promulgated or issued under this chapter.

(b) Notwithstanding the issuance of a consent order, the commissioner may seek civil or criminal penalties or compromise civil penalties concerning matters encompassed by the consent order.

(c) In cases involving extraordinary circumstances requiring immediate action, the commissioner may take any enforcement action authorized by this chapter without providing the opportunity for a prior hearing, but shall promptly afford a subsequent hearing upon an application to rescind the action taken that is filed with the commissioner within twenty (20) days after receipt of the notice to the commissioner's

emergency action.

[Acts 2004, ch. 747, § 16.]

Part 6
—Industrial Banks and Industrial Investment Companies

[45-5-601. Supervision and examination. —](#)

[45-5-602. Liquidation, dissolution, and reorganization of industrial banks. —](#)

[45-5-603. Capital structure. —](#)

[45-5-604. Insurance of thrift certificates. —](#)

[45-5-605. Issuance of thrift certificates. —](#)

[45-5-606. Rules concerning investment and thrift certificates. —](#)

[45-5-607. Applicability of laws pertaining to banks. —](#)

[45-5-608. Conversion of industrial loan and thrift companies. —](#)

[45-5-609. Merger with state bank. —](#)

[45-5-610. Conversion of investment certificates to thrift certificates. —](#)

[45-5-611. Fees. —](#)

[45-5-612. Out-of-state banks restricted — Compliance with § 45-5-609 required for all banks. —](#)

45-5-601. Supervision and examination. —

In addition to the supervision and examination for compliance with the provisions of this chapter as herein provided, industrial banks and industrial investment companies shall also be supervised and examined as banks for the protection of holders of investment and thrift certificates. To that end, the commissioner shall have and exercise with respect to industrial banks and industrial investment companies, in addition to the other powers and duties conferred by this title, the powers and duties specified in § [45-1-107](#) and in chapter 2, part 16 of this title, which part 16 shall be fully applicable to industrial banks and industrial investment companies.

[Acts 1983, ch. 274, § 20.]

45-5-602. Liquidation, dissolution, and reorganization of industrial banks. —

The provisions of chapter 2, part 15 of this title, pertaining to the liquidation, dissolution and reorganization of state banks, are fully applicable to industrial banks and industrial investment companies.

[Acts 1983, ch. 274, § 20.]

45-5-603. Capital structure. —

(a) To be registered as an industrial bank and to be authorized to issue thrift certificates, an industrial bank must have the capital structure required of state banks.

(b) To be registered as an industrial investment company and to be authorized to issue investment certificates, an industrial investment company must have a capital structure in keeping with the scope of its existing and proposed operations, as determined by the commissioner. In making the determinations, the commissioner shall consider the justification offered by the applicant in support of its existing or proposed capital structure; the amount of outstanding and proposed investment certificates of the applicant; the number and characteristics of any existing holders of the certificates and of the market contemplated for any proposed offering; the terms of any proposed offering; the assets and liabilities of the company; the history of profitability of the company; and any other factors deemed pertinent to the protection of investors in the certificates. In no event shall the commissioner require a capital structure for an industrial investment company less than that required for a comparable industrial loan and thrift company or more than that required for a comparable industrial bank.

[Acts 1983, ch. 274, § 20.]

45-5-604. Insurance of thrift certificates. —

For the purpose of providing for the insurance of thrift certificates, chapter 2, part 8 of this title shall be fully applicable to qualified industrial banks and to thrift certificates issued by them, and for that purpose, the word “bank” as used in that part includes “industrial bank” and the word “deposit” as used in that part includes “thrift certificate.”

[Acts 1983, ch. 274, § 20.]

45-5-605. Issuance of thrift certificates. —

An industrial bank shall not issue thrift certificates until and unless:

(1) It is qualified for federal deposit insurance and its thrift certificates are insured by the federal deposit insurance corporation;

(2) It has filed the forms, documents and receipts to be used by it in the offering and sale of the thrift certificates with the commissioner; and

(3) It has complied with all rules and orders of the commissioner governing the issuance of the thrift certificates by it.

[Acts 1983, ch. 274, § 20.]

45-5-606. Rules concerning investment and thrift certificates. —

In addition to the other rulemaking powers conferred upon the commissioner by this title, the commissioner is authorized and directed to adopt rules governing the issuance, offering and sale of investment certificates by industrial investment companies or thrift certificates by industrial banks and all operations of industrial investment companies and industrial banks in connection therewith, in order to protect the interests of the holders of the certificates, including, but not limited to, the maintenance of appropriate reserves.

[Acts 1983, ch. 274, § 20.]

45-5-607. Applicability of laws pertaining to banks. —

In order to protect the interests of holders of thrift certificates, in addition to the other provisions of chapters 1 and 2 of this title made applicable by this chapter to industrial

banks, the following sections are applicable to industrial banks as to state banks generally: §§ 45-1-122; 45-2-101 [repealed]; 45-2-103; 45-2-203; 45-2-207(a), (d) and (e); § [45-2-207](#)(c), except the reference to “trust powers”; § [45-2-208](#), except that loan limits for industrial banks shall be controlled by § 45-5-302, rather than §§ 45-2-1102; 45-2-209 [repealed]; 45-2-404; 45-2-607, except that industrial banks may invest in obligations that satisfy the requirements of chapter 5 of this title; and § [45-2-616](#).

[Acts 1983, ch. 274, § 20.]

45-5-608. Conversion of industrial loan and thrift companies. —

Any industrial loan and thrift company holding a certificate of registration under this chapter may convert to an industrial bank or to an industrial investment company by meeting the qualifications for operating as an industrial bank or industrial investment company as provided in this chapter. The commissioner shall provide forms for applications for conversion and may adopt rules governing conversion.

[Acts 1983, ch. 274, § 20.]

45-5-609. Merger with state bank. —

(a) Any industrial loan and thrift company holding a certificate of registration under this chapter that has converted into an industrial bank may, with the approval of the commissioner, be merged into a state bank in accordance with the procedures contained in § [45-2-1304](#) if the following conditions are met:

(1) The industrial loan and thrift company was legally chartered to transact business before 1930, and has, since its original incorporation, and prior to May 16, 1983, maintained branch offices in more than four (4) counties;

(2) The industrial loan and thrift company has been registered continuously with the state of Tennessee since the first enactment of statutes regulating the industrial loan and thrift industry; and

(3) The capital of the industrial loan and thrift company is, in the opinion of the commissioner, impaired or the company is, in the opinion of the commissioner, otherwise in an unsound condition as evidenced by a pending petition for corporate reorganization in bankruptcy or other similar legal proceeding.

(b) The authority of the commissioner to approve the mergers authorized in subsection (a) shall extend only to those transactions for which a merger agreement has been filed with the commissioner on or before December 1, 1983.

(c) The commissioner shall not approve any merger of an industrial bank into a state bank under the provisions of this section unless the commissioner determines that the industrial bank will not be owned or controlled, directly or indirectly, by any person who would not be otherwise qualified to own or acquire control in a state bank.

(d) For a period of three (3) full years following the effective date of the merger of an industrial bank into a state bank, in those counties other than the county in which the principal office of a state bank is located, the state bank into which the industrial bank is merged may continue to operate only those branch offices of the original industrial loan and thrift company that were in existence and operating on January 1, 1983, and those branch offices for which, in the opinion of the commissioner, land acquisition and plans for construction were substantially complete on or before January 1, 1983.

[Acts 1983, ch. 274, § 20.]

45-5-610. Conversion of investment certificates to thrift certificates. —

Any outstanding investment certificates of an industrial loan and thrift company or of an industrial investment company that converts to operation as an industrial bank or any

outstanding investment certificates of an industrial bank may be converted to thrift certificates, if the certificates will be insured by the federal deposit insurance corporation and otherwise meet the requirements for thrift certificates provided in this chapter and of any applicable rules adopted by the commissioner.

[Acts 1983, ch. 274, § 20.]

45-5-611. Fees. —

The commissioner is authorized and directed to adopt a schedule of fees to cover the reasonable costs of examination and supervision and of the processing of conversion applications provided for in this part. Failure to pay any such fee shall be cause for suspension or revocation of authority or denial of any application.

[Acts 1983, ch. 274, § 20.]

45-5-612. Out-of-state banks restricted — Compliance with § 45-5-609 required for all banks. —

(a) (1) The general assembly finds and declares that the ownership of industrial banks by non-Tennessee bank holding companies or other non-Tennessee corporations is not of benefit to the people and economy of the state of Tennessee and will result in the drain of capital from Tennessee.

(2) By July 5, 1984, any industrial bank owned by a bank holding company, or other company whose principal place of business is not in Tennessee, shall be divested by the company or liquidated and dissolved under the provisions of § [45-2-1501](#)(b), or shall be recertified by the commissioner as an industrial investment company, as defined in § [45-5-102](#), with the rights and powers of an industrial investment company, and shall no longer qualify as an industrial bank nor exercise any of the rights and powers of an industrial bank.

(b) No industrial bank shall be created nor any industrial loan and thrift company or industrial investment company shall be converted to an industrial bank pursuant to § [45-5-608](#), or pursuant to any other provision of law unless the industrial bank, industrial loan and thrift company or industrial investment company satisfies the conditions set forth in § [45-5-609](#)(a)(1) and (2).

(c) If an application for organization as or conversion to an industrial bank is pending or the application has been approved for certification as an industrial bank, then any applicant or industrial bank that does not meet the requirements of this section and § [45-5-609](#) shall be recertified by May 5, 1984, by the commissioner as an industrial investment company as defined in § [45-5-102](#), with the rights and powers of an industrial investment corporation, and shall no longer qualify as an industrial bank nor exercise any of the rights and powers of an industrial bank, or shall be liquidated and dissolved under the provisions of § [45-2-1501](#)(b).

(d) Subsection (c) applies to any and all industrial banks and applications for organization as or conversion to an industrial bank including, but not limited to, applications filed and approved prior to February 23, 1984; applications filed prior to but approved after February 23, 1984, and prior to April 5, 1984; applications filed before February 23, 1984, and pending on April 5, 1984; and applications filed and pending or filed and approved after February 23, 1984, and before April 5, 1984.

(e) This section shall not be construed to alter, deny, void or otherwise affect the rights and powers of either an industrial bank meeting the requirements of § [45-5-609](#), or a state bank resulting from a merger provided for in § [45-5-609](#).

[Acts 1984, ch. 513, §§ 1-5.]