

AMENDED IN SENATE APRIL 29, 2019

AMENDED IN SENATE MARCH 25, 2019

**SENATE BILL**

**No. 51**

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**Introduced by Senator Hertzberg**

(Principal coauthor: Assembly Member Bonta)

**(Coauthors: Senators *Bradford, Galgiani, Moorlach, Wieckowski,*  
*and Wiener*)**

(Coauthors: Assembly Members Jones-Sawyer, Lackey, and McCarty)

December 4, 2018

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An act to amend Sections 99, 185, 301, 329, 1003, and 14001.1 of, and to add Division 2.5 (commencing with Section 11000) to, the Financial Code, relating to ~~financial institutions~~; *institutions and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 51, as amended, Hertzberg. Financial institutions: cannabis.

(1) Existing law, the Financial Institutions Law, regulates the activities of various financial entities, including commercial banks, industrial banks, trust companies, credit unions, and savings and loan associations. The Banking Law defines and regulates state banks and commits the enforcement of banking laws to the Commissioner of Business Oversight. The California Credit Union Law provides for the licensure and regulation of credit unions by the Commissioner of Business Oversight and makes a willful violation of that law a crime.

The Control, Regulate and Tax Adult Use of Marijuana Act, an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under the act to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. The Medicinal

and Adult-Use Cannabis Regulation and Safety Act, among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities.

This bill would create the Cannabis Limited Charter Banking and Credit Union Law, to be administered by the Commissioner of Business Oversight and the Department of Business Oversight. The bill would create the Cannabis Limited Charter Bank and Credit Union Advisory Board and specify its composition, to include the Treasurer, the Controller, and the Chief of the Bureau of Cannabis Control, and commit to it the general responsibility for ensuring that this law functions in a safe and efficient way. The bill would prescribe the powers and duties of the board, including reviewing department enforcement reports, holding meetings that would be open to public comment, and issuing its own recommendations, which would be submitted to the Legislature and the Governor. The board would also be required to provide guidance on specified investment activities.

The bill would provide for the licensure and regulation of cannabis limited charter banks and credit unions for the purpose of providing banking services, as defined, to cannabis businesses. The bill would require a person who desires to be licensed as a cannabis limited charter bank or credit union to submit an application to the department, and would require that person to elect to form under either the Banking Law or the California Credit Union Law. The bill would authorize the department to charge an applicant for a cannabis limited charter bank or credit union license a reasonable fee. The bill would require a licensee to comply with all requirements in the Financial Institutions Law, and either the Banking Law or the California Credit Union Law, as applicable, except to the extent that any requirement of those laws are inconsistent with a provision of the Cannabis Limited Charter Banking and Credit Union Law. By expanding the application of the California Credit Union Law, a willful violation of which is a crime, the bill would impose a state-mandated local program. The bill would require a cannabis limited charter bank or credit union to adopt policies and practices to achieve the principles and goals outlined in the federal Bank Secrecy Act and cooperate with the federal Financial Crimes Enforcement Network. The bill would prohibit a cannabis limited charter bank or credit union from engaging in banking activity with any other financial institution that lacks a limited purpose charter issued under these provisions.

This bill would authorize a cannabis limited charter bank or credit union to issue to an account holder special purpose checks that would be valid for only specified purposes. The bill would authorize a cannabis limited charter bank or credit union to cash the checks it has issued, including those presented by parties that are not account holders, as specified. The bill would permit these checks to be used for the payment of state and local fees and taxes, payment of rent on property leased by, or on behalf of, the account holder's cannabis business, payment of vendors physically located in California, as specified, and the purchase of state and local bonds, as specified. The bill would provide that a person or entity is not required to accept these checks. The bill would require a cannabis limited charter bank or credit union to obtain and maintain insurance at all times that it is engaged in business, subject to certain requirements including that the insurance be in an amount acceptable to the commissioner. The bill would authorize a cannabis limited charter bank or credit union to charge fees for its banking services, and would require, in these circumstances, that each limited charter bank and credit union conspicuously post on its internet website the types of fees and their amounts, as specified. The bill would authorize a cannabis limited charter bank or credit union to enter into an agreement with another licensee to form a banking network, subject to the approval of the commissioner, to facilitate the provision of cannabis banking services.

The bill would require the Department of Business Oversight to adopt emergency regulations and would prohibit the department from issuing a license for these purposes prior to July 1, 2020, except as specified. ~~The bill would require the department to provide a specified report to the Senate Committee on Banking and Financial Institutions and the Senate Committee on Governance and Finance.~~

The bill would make the Cannabis Limited Charter Banking and Credit Union Law inoperative if the federal government removes cannabis and cannabis-related substances from the federal schedule of controlled substances or enacts legislation that establishes protections for depository institutions that provide financial services to cannabis-related legitimate businesses. The bill would also require the department, if either of these events occur, to post notice of the occurrence on its internet website, send notice to both the Secretary of State and the Office of Legislative Counsel, and provide guidance for the orderly resolution of all cannabis limited charter banks or credit unions licensed, as specified.

The bill would also make a statement of legislative findings.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares:

2 (a) In November 2016, California voters passed Proposition 64,  
3 the Control, Regulate and Tax Adult Use of Marijuana Act,  
4 authorizing recreational use of marijuana subject to specified limits.  
5 Medicinal cannabis use has been legal under California law since  
6 1996 with the passage of Proposition 215, the Compassionate Use  
7 Act of 1996.

8 (b) Since 1996, a network of producers, distributors, and  
9 dispensaries have developed in California to serve the needs of  
10 the medical cannabis community. All of these businesses are  
11 expected to expand, and new businesses are expected to join them,  
12 in order to serve recreational cannabis users.

13 (c) Cannabis remains illegal under federal law. The United  
14 States Drug Enforcement Administration classifies cannabis as a  
15 Schedule I drug. As a result, the majority of financial institutions  
16 that take deposits, including banks, thrifts, and credit unions, do  
17 not serve cannabis businesses. This status precludes  
18 cannabis-related businesses from depositing income in, or engaging  
19 in other banking-related activities with, federally insured and  
20 regulated financial institutions and from using a federal  
21 clearinghouse to process their payments.

22 (d) Since most financial institutions will not serve cannabis  
23 businesses because of the conflict of federal law with state law,  
24 these businesses are unable to open and use checking accounts,  
25 make or receive electronic payments, or accept credit or debit  
26 cards.

1 (e) While income from the sale of cannabis products is  
2 considered ill-gotten gains by the federal government, that income  
3 is still taxable. The Internal Revenue Service specifically states in  
4 Publication 525, Taxable and Nontaxable Income, that “(i)llegal  
5 income, such as money from dealing illegal drugs, must be included  
6 in your income on Form 1040, line 21, or on Schedule C or  
7 Schedule C-EZ (Form 1040) if from your self-employment  
8 activity.”

9 (f) The need for banking services for the cannabis industry is  
10 at an all-time high, given that the industry is now expected to  
11 generate more than \$8,000,000,000 in revenue annually.

12 (g) The lack of banking services has created both regulatory  
13 and public safety issues. State and local governments must be able  
14 to audit and perform accounting and other accountability functions  
15 affecting cannabis-related businesses. This is made significantly  
16 more difficult when the majority of transactions are completed  
17 with cash.

18 (h) With financial services unavailable to cannabis businesses,  
19 these businesses are less able to pay taxes and follow California  
20 regulations governing cannabis.

21 (i) Additionally, the lack of access to financial services has  
22 created public safety issues for businesses that need to pay high  
23 security costs to safeguard their income and their employees, who  
24 risk being robbed when managing and transporting cash.

25 (j) California voters have spoken in support of the new cannabis  
26 laws. Without a change in law regarding financial services,  
27 businesses providing services that are lawful under state law may  
28 elect to remain underground and not become regulated, tax-paying  
29 California businesses, as the voters intended.

30 (k) In furtherance of the will of the voters, the California  
31 government has a responsibility to enact appropriate implementing  
32 legislation for Proposition 64. The current conflict with federal  
33 law creates a significant problem requiring legislative attention.  
34 The state has a duty to provide a mechanism to help these lawful  
35 businesses to gain access to banking services that is consistent  
36 with the will of California voters.

37 SEC. 2. Section 99 of the Financial Code is amended to read:

38 99. This division, Division 1.1 (commencing with Section  
39 1000), Division 1.2 (commencing with Section 2000), Division  
40 1.6 (commencing with Section 4800), Division 2 (commencing

1 with Section 5000), Division 2.5 (commencing with Section  
2 11000), Division 5 (commencing with Section 14000), Division  
3 7 (commencing with Section 18000), and Division 15 (commencing  
4 with Section 31000) shall be known, and may be cited, as the  
5 “Financial Institutions Law.”

6 SEC. 3. Section 185 of the Financial Code is amended to read:

7 185. “Licensee” has the following meanings:

8 (a) Any bank authorized by the commissioner pursuant to  
9 Section 1042 to transact banking or trust business.

10 (b) Any industrial bank authorized by the commissioner pursuant  
11 to Section 1042 to transact industrial banking business.

12 (c) Any trust company authorized by the commissioner pursuant  
13 to Section 1042 to transact trust business.

14 (d) Any foreign (other nation) bank that is licensed under Article  
15 2 (commencing with Section 1780) of Chapter 20 or under Article  
16 3 (commencing with Section 1800) of Chapter 20.

17 (e) Any person licensed by the commissioner as a money  
18 transmitter pursuant to Division 1.2 (commencing with Section  
19 2000).

20 (f) Any person authorized by the commissioner to conduct the  
21 business of a savings association pursuant to Division 2  
22 (commencing with Section 5000).

23 (g) Any credit union authorized by the commissioner to conduct  
24 business pursuant to Section 14154.

25 (h) Any foreign (other state) credit union licensed by the  
26 commissioner to conduct business pursuant to Chapter 11  
27 (commencing with Section 16000) of Division 5.

28 (i) Any foreign (other nation) credit union licensed by the  
29 commissioner to conduct business pursuant to Chapter 12  
30 (commencing with Section 16500) of Division 5.

31 (j) Any industrial loan company authorized by the commissioner  
32 to conduct insurance premium finance business pursuant to  
33 Division 7 (commencing with Section 18000).

34 (k) Any corporation licensed by the commissioner as a business  
35 and industrial development corporation pursuant to Section 31154.

36 (l) Any cannabis limited charter bank or credit union authorized  
37 by the commissioner to conduct banking services pursuant to  
38 Division 2.5 (commencing with Section 11000).

39 SEC. 4. Section 301 of the Financial Code is amended to read:

1 301. (a) This chapter is applicable to this division, Division  
2 1.1 (commencing with Section 1000), Division 1.2 (commencing  
3 with Section 2000), Division 1.6 (commencing with Section 4800),  
4 Division 2.5 (commencing with Section 11000), Division 5  
5 (commencing with Section 14000), Division 7 (commencing with  
6 Section 18000), and Division 15 (commencing with Section  
7 31000).

8 (b) Except as provided in subdivision (c), this article, and  
9 Articles 2 (commencing with Section 320) and 3 (commencing  
10 with Section 350) are applicable to the administration of laws by  
11 the Division of Corporations.

12 (c) Sections 329, 330, 332, 335, 336, 357, 378, 379, and 381  
13 are not applicable to the Division of Corporations.

14 SEC. 5. Section 329 of the Financial Code is amended to read:

15 329. (a) For purposes of this section, the following definitions  
16 apply:

17 (1) “Applicable law” means:

18 (A) With respect to any bank, Division 1.6 (commencing with  
19 Section 4800), and any of the following provisions:

20 (i) Article 6 (commencing with Section 405) of Chapter 3.

21 (ii) Article 3 (commencing with Section 1130) of Chapter 5 of  
22 Division 1.1.

23 (iii) Chapter 6 (commencing with Section 1200) of Division  
24 1.1.

25 (iv) Chapter 10 (commencing with Section 1320) of Division  
26 1.1.

27 (v) Chapter 14 (commencing with Section 1460) of Division  
28 1.1.

29 (vi) Article 1 (commencing with Section 1530) of Chapter 15  
30 of Division 1.1.

31 (vii) Chapter 16 (commencing with Section 1550) of Division  
32 1.1.

33 (viii) Chapter 20 (commencing with Section 1750) of Division  
34 1.1.

35 (ix) Section 456.

36 (x) Section 457.

37 (xi) Section 459.

38 (xii) Section 460.

39 (xiii) Section 461.

40 (xiv) Section 1331.

- 1 (xv) Chapter 21 (commencing with Section 1850) of Division  
2 1.1.
- 3 (xvi) Chapter 18 (commencing with Section 1660) of Division  
4 1.1.
- 5 (xvii) Chapter 19 (commencing with Section 1670) of Division  
6 1.1.
- 7 (B) With respect to any savings association, any provision of  
8 Division 1.6 (commencing with Section 4800) and Division 2  
9 (commencing with Section 5000).
- 10 (C) With respect to any insurance premium finance agency, any  
11 provision of Division 7 (commencing with Section 18000).
- 12 (D) With respect to any business and industrial development  
13 corporation, any provision of Division 15 (commencing with  
14 Section 31000).
- 15 (E) With respect to any credit union, any of the following  
16 provisions:
- 17 (i) Section 14252.
- 18 (ii) Section 14253.
- 19 (iii) Section 14255.
- 20 (iv) Article 4 (commencing with Section 14350) of Chapter 3  
21 of Division 5.
- 22 (v) Section 14401.
- 23 (vi) Section 14404.
- 24 (vii) Section 14408, only as that section applies to gifts to  
25 directors, volunteers, and employees, and the related family or  
26 business interests of the directors, volunteers, and employees.
- 27 (viii) Section 14409.
- 28 (ix) Section 14410.
- 29 (x) Article 5 (commencing with Section 14600) of Chapter 4  
30 of Division 5.
- 31 (xi) Article 6 (commencing with Section 14650) of Chapter 4  
32 of Division 5, excluding subdivision (a) of Section 14651.
- 33 (xii) Section 14803.
- 34 (xiii) Section 14851.
- 35 (xiv) Section 14858.
- 36 (xv) Section 14860.
- 37 (xvi) Section 14861.
- 38 (xvii) Section 14863.
- 39 (F) With respect to any money transmitter, any provision of  
40 Division 1.2 (commencing with Section 2000).

1 (G) With respect to any cannabis limited charter bank or credit  
2 union, any provision of Division 2.5 (commencing with Section  
3 11000).

4 (2) “Licensee” means any bank, savings association, credit  
5 union, trust company, cannabis limited charter bank or credit union,  
6 money transmitter, insurance premium finance agency, or business  
7 and industrial development corporation that is authorized by the  
8 commissioner to conduct business in this state.

9 (b) Notwithstanding any other provision of this code that applies  
10 to a licensee or a subsidiary of a licensee, after notice and an  
11 opportunity to be heard, the commissioner may, by order that shall  
12 include findings of fact which incorporates a determination made  
13 in accordance with subdivision (e), levy civil penalties against any  
14 licensee or any subsidiary of a licensee who has violated any  
15 provision of applicable law, any order issued by the commissioner,  
16 any written agreement between the commissioner and the licensee  
17 or subsidiary of the licensee, or any condition of any approval  
18 issued by the commissioner. The commissioner shall have the sole  
19 authority to bring any action with respect to a violation of  
20 applicable law subject to a penalty imposed under this section.

21 Except as provided in paragraphs (1) and (2), any penalty  
22 imposed by the commissioner may not exceed one thousand dollars  
23 (\$1,000) per day, provided that the aggregate penalty of all offenses  
24 in any one action against any licensee or subsidiary of a licensee  
25 shall not exceed fifty thousand dollars (\$50,000).

26 (1) If the commissioner determines that any licensee or  
27 subsidiary of the licensee has recklessly violated any applicable  
28 law, any order issued by the commissioner, any provision of any  
29 written agreement between the commissioner and the licensee or  
30 subsidiary, or any condition of any approval issued by the  
31 commissioner, the commissioner may impose a penalty not to  
32 exceed five thousand dollars (\$5,000) per day, provided that the  
33 aggregate penalty of all offenses in an action against any licensee  
34 or subsidiary of a licensee shall not exceed seventy-five thousand  
35 dollars (\$75,000).

36 (2) If the commissioner determines that any licensee or  
37 subsidiary of the licensee has knowingly violated any applicable  
38 law, any order issued by the commissioner, any provision of any  
39 written agreement between the commissioner and the licensee or  
40 subsidiary, or any condition of any approval issued by the

1 commissioner, the commissioner may impose a penalty not to  
2 exceed ten thousand dollars (\$10,000) per day, provided that the  
3 aggregate penalty of all offenses in an action against any licensee  
4 or subsidiary of a licensee shall not exceed 1 percent of the total  
5 assets of the licensee or subsidiary of a licensee subject to the  
6 penalty.

7 (c) Nothing in this section shall be construed to impair or impede  
8 the commissioner from pursuing any other administrative action  
9 allowed by law.

10 (d) Nothing in this section shall be construed to impair or impede  
11 the commissioner from bringing an action in court to enforce any  
12 law or order the commissioner has issued, including orders issued  
13 under this section. Nothing in this section shall be construed to  
14 impair or impede the commissioner from seeking any other  
15 damages or injunction allowed by law.

16 (e) In determining the amount and the appropriateness of  
17 initiating a civil money penalty under subdivision (b), the  
18 commissioner shall consider all of the following:

19 (1) Evidence that the violation or practice or breach of duty was  
20 intentional or was committed with a disregard of the law or with  
21 a disregard of the consequences to the institution.

22 (2) The duration and frequency of the violations, practices, or  
23 breaches of duties.

24 (3) The continuation of the violations, practices, or breaches of  
25 duty after the licensee or subsidiary of the licensee was notified,  
26 or, alternatively, its immediate cessation and correction.

27 (4) The failure to cooperate with the commissioner in effecting  
28 early resolution of the problem.

29 (5) Evidence of concealment of the violation, practice, or breach  
30 of duty or, alternatively, voluntary disclosure of the violation,  
31 practice, or breach of duty.

32 (6) Any threat of loss, actual loss, or other harm to the  
33 institution, including harm to the public confidence in the  
34 institution, and the degree of that harm.

35 (7) Evidence that a licensee or subsidiary of a licensee received  
36 financial gain or other benefit as a result of the violation, practice,  
37 or breach of duty.

38 (8) Evidence of any restitution paid by a licensee or subsidiary  
39 of a licensee of losses resulting from the violation, practice, or  
40 breach of duty.

1 (9) History of prior violations, practices, or breaches of duty,  
2 particularly where they are similar to the actions under  
3 consideration.

4 (10) Previous criticism of the institution for similar actions.

5 (11) Presence or absence of a compliance program and its  
6 effectiveness.

7 (12) Tendency to engage in violations of law, unsafe or unsound  
8 financial institutions practices, or breaches of duties.

9 (13) The existence of agreements, commitments, orders, or  
10 conditions imposed in writing intended to prevent the violation,  
11 practice, or breach of duty.

12 (14) Whether the violation, practice, or breach of duty causes  
13 quantifiable, economic benefit or loss to the licensee or the  
14 subsidiary of the licensee. In those cases, removal of the benefit  
15 or recompense of the loss usually will be insufficient, by itself, to  
16 promote compliance with the applicable law, order, or written  
17 agreement. The penalty amount should reflect a remedial purpose  
18 and should provide a deterrent to future misconduct.

19 (15) Other factors as the commissioner may, in their opinion,  
20 consider relevant to assessing the penalty or establishing the  
21 amount of the penalty.

22 (f) The amounts collected under this section shall be deposited  
23 in the appropriate fund of the department. For purposes of this  
24 subdivision, the term “appropriate fund” means the fund to which  
25 the annual assessments of fined licensees, or the parent licensee  
26 of the fined subsidiary, are credited.

27 SEC. 6. Section 1003 of the Financial Code is amended to read:

28 1003. Except where explicitly stated or the context provides  
29 otherwise, this division is applicable to the following:

30 (a) All corporations engaging in commercial banking, industrial  
31 banking, or the trust business.

32 (b) All national banking associations authorized to transact  
33 business in this state to the extent that the provisions of this division  
34 are not inconsistent with and do not infringe paramount federal  
35 laws governing national banking associations.

36 (c) All cannabis limited charter banks or credit unions that elect  
37 to form under this division to the extent that the provisions of this  
38 division are not inconsistent with Division 2.5 (commencing with  
39 Section 11000).

1 (d) All other corporations that subject themselves to the special  
2 provisions and sections of this division.

3 (e) All other persons, associations, copartnerships, or  
4 corporations who, by violating any of its provisions, become  
5 subject to the penalties provided for in this division.

6 SEC. 7. Division 2.5 (commencing with Section 11000) is  
7 added to the Financial Code, to read:

8

9 DIVISION 2.5. CANNABIS LIMITED CHARTER BANKING  
10 AND CREDIT UNION LAW

11

12 CHAPTER 1. GENERAL PROVISIONS

13

14 Article 1. Short Title and Construction

15

16 11000. This division is known, and may be cited, as the  
17 Cannabis Limited Charter Banking and Credit Union Law.

18

19 Article 2. Definitions

20

21 11005. For purposes of this chapter:

22 (a) “Applicant” means a person or entity that submits an  
23 application to be licensed by the state to provide banking services  
24 to a cannabis business pursuant to this division.

25 (b) “Banking services” means the provision of depository  
26 services with respect to cash or other funds and the issuance and  
27 acceptance of special purpose checks, including the acceptance  
28 and maintenance of deposit proceeds, consistent with the  
29 requirements and limitations provided by this chapter.

30 (c) “Board” means the Cannabis Limited Charter Bank and  
31 Credit Union Advisory Board.

32 (d) “Cannabis business” means a person licensed to engage in  
33 commercial cannabis activity under Division 10 (commencing  
34 with Section 26000) of the Business and Professions Code. The  
35 term “cannabis business” also includes an ancillary business or  
36 profession that serves a person licensed to engage in commercial  
37 cannabis activity under Division 10 (commencing with Section  
38 26000) of the Business and Professions Code.

39 (e) “Cannabis limited charter bank or credit union” means a  
40 person that receives a license following the approval of an

1 application pursuant to Chapter 3 (commencing with Section  
2 11040).

3 (f) “Commissioner” means the Commissioner of Business  
4 Oversight.

5 (g) “Department” means the Department of Business Oversight.

6 (h) “Licensee” means a cannabis limited charter bank or credit  
7 union.

8

9

CHAPTER 2. ADMINISTRATION

10

11 Article 1. The Cannabis Limited Charter Bank and Credit Union  
12 Advisory Board

13

14 11010. (a) There is hereby created the Cannabis Limited  
15 Charter Bank and Credit Union Advisory Board. The board shall  
16 be comprised of the Treasurer, the Controller, and the Chief of the  
17 Bureau of Cannabis Control. The Director of Finance shall serve  
18 as an ex officio, nonvoting member. Board members shall not be  
19 compensated for their services.

20 (b) The board shall be generally responsible for ensuring that  
21 the Cannabis Limited Charter Banking and Credit Union Law  
22 provides a safe and efficient way to pay state and local taxes and  
23 fees, to pay rent associated with the account holder’s cannabis  
24 business, to issue special purpose checks, and legally invest in  
25 California’s economy, while reducing burdens placed on local  
26 government that result from collecting and managing large sums  
27 of cash.

28 11011. In light of the particular challenges arising from  
29 cannabis business activities, the department shall submit reports  
30 of enforcement activities to the board for review annually or as  
31 the board may require. The board shall meet once a year, or more  
32 often as needed, at the board’s discretion, to review enforcement  
33 activity reports from the department. These meetings shall be  
34 noticed and open to public comment. The board shall evaluate the  
35 reports and the comments of the public and draft recommended  
36 actions to be taken legislatively or administratively, which shall  
37 be submitted to the Legislature and Governor. Recommendations  
38 provided to the Legislature shall be submitted in compliance with  
39 Section 9795 of the Government Code.

1 11012. The board shall provide guidance and education to  
2 registered broker-dealers and licensed investment advisors on how  
3 to accommodate account holders of cannabis limited charter banks  
4 and credit unions in purchasing, holding, and selling any of the  
5 investments described in paragraph (4) of subdivision (b) of Section  
6 11050.

7  
8  
9

## Article 2. Licensing

10 11020. (a) A person may act as a cannabis limited charter bank  
11 or credit union after obtaining a license pursuant to this division.

12 (b) A cannabis limited charter bank or credit union license is  
13 not transferable or assignable.

14 11021. A licensee shall comply with all requirements of the  
15 Financial Institutions Law (Division 1 (commencing with Section  
16 99)) and either the Banking Law (Division 1.1 (commencing with  
17 Section 1000)) or the California Credit Union Law (Division 5  
18 (commencing with Section 14000)), as applicable, except to the  
19 extent that any requirement of those laws are inconsistent with a  
20 provision of this division, in which case the provisions of this  
21 division shall prevail.

22 11025. A cannabis limited charter bank or credit union shall  
23 adopt policies and practices that allow it to achieve the principles  
24 and goals outlined in the federal Bank Secrecy Act (~~commencing~~  
25 ~~with 31~~ (31 U.S.C. Sec. 5311) and cooperate with the federal  
26 Financial Crimes Enforcement Network.

27 11026. The department shall adopt emergency regulations  
28 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
29 1 of Division 3 of Title 2 of the Government Code to implement  
30 this division. The adoption of these regulations is deemed to be  
31 an emergency and necessary for the immediate preservation of the  
32 public peace, health, or safety.

33 11027. (a) Except as provided in subdivision ~~(e)~~, (b), the  
34 department shall not issue a license under this chapter before July  
35 1, 2020.

36 ~~(b) On or before June 30, 2020, the department shall report to~~  
37 ~~the Senate Committee on Banking and Financial Institutions and~~  
38 ~~the Senate Committee on Governance and Finance regarding the~~  
39 ~~status of the regulations and the implementation of this chapter.~~

40 (e)

1 (b) Notwithstanding *subdivision* (a), the department may issue  
2 a license under this chapter before July 1, 2020, if the following  
3 conditions are met:

4 (1) The regulations required by Section 11026 have been  
5 adopted.

6 ~~(2) The report required by subdivision (b) has been received by~~  
7 ~~the Senate Committee on Banking and Financial Institutions and~~  
8 ~~the Senate Committee on Governance and Finance.~~

9 ~~(3) The Senate Committee on Banking and Financial Institutions~~  
10 ~~and the Senate Committee on Governance and Finance have met~~  
11 ~~in an open and public meeting to consider the report required by~~  
12 ~~subdivision (b).~~

13 ~~(4)~~

14 (2) The Commissioner of Business Oversight makes a written  
15 finding that the requirements of paragraphs (1) to (3), inclusive,  
16 ~~have requirement in paragraph (1) has~~ been met and the  
17 department is prepared to issue licenses, consistent with the  
18 regulations required by Section 11026, and posts the written finding  
19 on the department’s internet website.

20

21

### CHAPTER 3. APPLICATION

22

23 11040. An applicant that desires to be licensed to act as a  
24 cannabis limited charter bank or credit union pursuant to this  
25 division shall submit a completed application to the department  
26 in a form prescribed by the commissioner that satisfies the  
27 requirements of this chapter. An applicant that desires to be  
28 licensed to act as a limited charter bank or credit union pursuant  
29 to this division shall elect to form under either the Banking Law  
30 (Division 1.1 (commencing with Section 1000)) or the California  
31 Credit Union Law (Division 5 (commencing with Section 14000)),  
32 and shall comply with all requirements imposed by those laws, as  
33 applicable, except to the extent any requirement of those laws is  
34 inconsistent with the provisions of this chapter.

35 11042. The department may charge an applicant a reasonable  
36 fee for a cannabis limited charter bank or credit union license, not  
37 to exceed the costs of regulation.

## CHAPTER 4. AUTHORIZATIONS

1  
2  
3 11050. (a) A cannabis limited charter bank or credit union  
4 may issue to an account holder special purpose checks that shall  
5 be valid for only the purposes specified in subdivision (b). The  
6 following text shall be printed on each check in at least 12-point  
7 type, with the name of the issuing bank included: “This check is  
8 issued by [insert name of bank] and may only be deposited or  
9 cashed at this cannabis limited charter bank or credit union or  
10 another cannabis limited charter bank or credit union that agrees  
11 to accept the check.”

12 (b) Subject to the limitations of subdivision (d), a special  
13 purpose check issued by a cannabis limited charter bank or credit  
14 union may only be used for the following purposes:

15 (1) To pay fees or taxes to the state or a local jurisdiction.  
16 (2) To pay rent on property that is leased by, or on behalf of,  
17 the account holder’s cannabis business.  
18 (3) To pay a vendor that is physically located in California for  
19 expenses related to goods and services associated with the account  
20 holder’s cannabis business.  
21 (4) To purchase the following:

22 (A) Bonds, interest-bearing notes, or interest-bearing warrants  
23 of this state for which the faith and credit of this state are pledged  
24 for the payment of principal and interest.  
25 (B) Bonds or warrants, including, but not limited to, revenue  
26 warrants, of any county, city, metropolitan water district, California  
27 water district, California water storage district, irrigation district  
28 in the state, municipal utility district, or school district of this state.

29 (c) Subject to the limitations of subdivision (d), state and local  
30 government offices are authorized to accept a special purpose  
31 check issued by a cannabis limited charter bank or credit union.

32 (d) An individual or entity, private or public, is not required to  
33 accept a special purpose check issued by a cannabis limited charter  
34 bank or credit union pursuant to this section.

35 (e) A cannabis limited charter bank or credit union is authorized  
36 to cash a special purpose check presented to it by a person or entity  
37 that is not an account holder, if that limited charter bank or credit  
38 union previously issued that special purpose check to an account  
39 holder, and the check was used for one of the authorized purposes  
40 specified in subdivision (b).

1 11052. A cannabis limited charter bank or credit union shall  
2 obtain and maintain private insurance in an amount acceptable to  
3 the commissioner for the cannabis depository institution and its  
4 assets at all times while it is engaged in banking services. Private  
5 insurance shall not be unsatisfactory to the commissioner. In  
6 seeking and retaining private insurance, a cannabis limited charter  
7 bank or credit union may do all things and assume and discharge  
8 all obligations required of it that are not in conflict with state law.

9 11054. A cannabis limited charter bank or credit union may  
10 enter into an agreement with one or more other limited charter  
11 licensees in order to form a banking network. That agreement shall  
12 be subject to the approval of the commissioner. The network shall  
13 be for the purpose of assisting each other in providing services to  
14 cannabis businesses and each other. A network of this type shall  
15 not include any institution that is not a licensee under this division.

16 11056. A cannabis limited charter bank or credit union may  
17 provide accounts to people and entities other than cannabis  
18 businesses, pursuant to rules that may be adopted by the  
19 commissioner.

20 11058. A cannabis limited charter bank or credit union may  
21 charge fees for the banking services that it provides. Each cannabis  
22 limited charter bank and credit union that charges fees shall  
23 conspicuously post on its internet website the types of fees, and  
24 the amounts of fees, it charges for its services, in a format intended  
25 to provide transparency.

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28

CHAPTER 5. PROHIBITED PRACTICES

29 11100. (a) A cannabis limited charter bank or credit union  
30 shall not engage in banking activity with any other financial  
31 institution that lacks a limited purpose charter issued under this  
32 division.

33 (b) A cannabis limited charter bank or credit union shall not  
34 engage in any activity under Division 1.1 (commencing with  
35 Section 1000) or Division 5 (commencing with Section 14000)  
36 other than activity required to accept deposits and perform actions  
37 described in Chapter 4.

## CHAPTER 6. OPERATIVE CONDITIONS

1  
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3 11101. (a) This division shall become inoperative if either of  
4 the following occurs, whichever occurs first:

5 (1) The federal government, by legislative or executive action,  
6 removes cannabis and cannabis-related substances from the  
7 schedule of controlled substances, as defined in the Controlled  
8 Substances Act (21 U.S.C. Sec. 812; 21 C.F.R. ~~Pt.~~ 1308).

9 (2) The federal government enacts legislation that establishes  
10 protections for depository institutions that provide financial  
11 services to cannabis-related legitimate businesses.

12 (b) Within 30 days of the occurrence of either event set forth  
13 in paragraph (1) or (2) of subdivision (a), the department shall do  
14 both of the following:

15 (1) Post notice of that occurrence on the homepage of its internet  
16 website, and send notice to both the Secretary of State and the  
17 Office of Legislative Counsel.

18 (2) Provide guidance for the orderly resolution of all cannabis  
19 limited charter banks or credit unions licensed pursuant to this  
20 division. The resolution may involve, but is not limited to,  
21 conversion to a state bank pursuant to Division 1.1 (commencing  
22 with Section 1000), conversion to a state credit union pursuant to  
23 Division 5 (commencing with Section 14000), or a sale, merger,  
24 or conversion pursuant to Division 1.6 (commencing with Section  
25 4800).

26 SEC. 8. Section 14001.1 of the Financial Code is amended to  
27 read:

28 14001.1. This division is applicable to any person, other than  
29 a federal credit union engaging in the business of a credit union  
30 in this state. For purposes of this division, “person” shall have the  
31 meaning set forth in Section 5065 of the Corporations Code. This  
32 division is also applicable to any cannabis limited charter bank or  
33 credit union that elects to form under this division except to the  
34 extent that the provisions of this division are inconsistent with  
35 Division 2.5 (commencing with Section 11000).

36 SEC. 9. No reimbursement is required by this act pursuant to  
37 Section 6 of Article XIII B of the California Constitution because  
38 the only costs that may be incurred by a local agency or school  
39 district will be incurred because this act creates a new crime or  
40 infraction, eliminates a crime or infraction, or changes the penalty

1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 *SEC. 10. This act is an urgency statute necessary for the*  
6 *immediate preservation of the public peace, health, or safety within*  
7 *the meaning of Article IV of the California Constitution and shall*  
8 *go into immediate effect. The facts constituting the necessity are:*

9 *In order to eliminate public safety issues presented with*  
10 *managing and transporting cash because of the lack of access to*  
11 *financial services for cannabis businesses, to enable state and*  
12 *local governments to accurately perform accounting and other*  
13 *regulatory functions over the cannabis industry, and to enable*  
14 *cannabis businesses to comply with laws regulating the cannabis*  
15 *industry, it is necessary that this bill take effect immediately.*