

2018 Regular Session

SENATE BILL NO. 251

BY SENATOR MARTINY

FINANCIAL INSTITUTIONS. Provides relative to Louisiana Business and Industrial Company Act and certain unlawful activities. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 51:2397(E), (F), and (G)(2)(c), relative to the Louisiana Business
3 and Industrial Development Company Act; to provide relative to certain unlawful
4 activities; to provide for exceptions; to provide for certain terms and procedures; and
5 to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 51:2397(E), (F), and (G)(2)(c) are hereby amended and reenacted to
8 read as follows:

9 §2397. Certain unlawful activities

10 * * *

11 E. A licensee shall not provide, directly or indirectly, financing assistance to
12 an associate of the licensee, except with respect to guarantees and other forms of
13 credit support provided by the licensee in connection with securing funds to be used
14 by the licensee in providing financing assistance to business firms. **This Subsection**
15 **shall not apply to financing assistance provided to an associate of a licensee who**
16 **is an associate only because the licensee or its associate has either:**

17 **(1) In the normal course of its business and in order to protect its**

1 interests, designated a person to serve as a director, manager, officer, or any
2 other capacity, in the management of the business firm receiving financing
3 assistance.

4 (2) Acquired, in the normal course of its business, direct or indirect
5 ownership or control of a twenty percent or greater equity interest in the
6 business firm receiving financing assistance.

7 F. A licensee shall not provide, directly or indirectly, financing assistance to
8 discharge, or to free other money for use in discharging, in whole or in part, an
9 obligation to an associate of that licensee. This Subsection does not apply to a
10 transaction effected by an associate of a licensee in the normal course of that
11 associate's business ~~involving a line of credit or short-term financing assistance.~~

12 G. * * *

13 (2) This Subsection does not apply to any of the following:

14 * * *

15 (c) A transaction effected by an associate of a licensee in the normal course
16 of that associate's business ~~involving a line of credit or short-term financing~~
17 ~~assistance.~~

18 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 251 Original

2018 Regular Session

Martiny

Present law provides relative to the Louisiana Business and Industrial Development Company Act (BIDCO).

Present law provides that the commissioner of the Office of Financial Institutions may license La. corporations or La. limited liability companies to transact business as a BIDCO provided certain criteria are met.

Present law defines BIDCO as a business and industrial development company licensed pursuant to the provisions of present law.

Present law provides relative to certain unlawful activities of licensee and exceptions thereto.

Present law provides that a licensee shall not provide, directly or indirectly, financing assistance to an associate of the licensee, except with respect to the guarantees and other forms of credit support provided by the licensee in connection with securing funds to be used

by the licensee in providing financing assistance to business firms.

Proposed law exempts from the provisions of present law financing assistance provided to an associate of a licensee who is an associate only because the licensee or its associate has either:

- (1) In the normal course of its business and in order to protect its interests, designated a person to serve as a director, manager, officer, or any other capacity, in the management of the business firm receiving financing assistance.
- (2) Acquired, in the normal course of its business, direct or indirect ownership or control of a 20% or greater equity interest in the business firm receiving financing assistance.

Present law provides that a licensee shall not provide, directly or indirectly, financing assistance to discharge, or to free other money for use in discharging, in whole or in part, an obligation to an associate of that licensee. A transaction effected by an associate of a licensee in the normal course of that associate's business involving a line of credit or short-term financing assistance is exempt from present law.

Proposed law removes from the present law exemption the involvement of a line of credit or short-term financing assistance.

Present law prohibits a licensee from providing directly or indirectly, financing assistance to a business firm to which an associate of that licensee provides financing assistance, either contemporaneously with, or within one year before or after, the providing of financing assistance by the licensee, if the terms on which the licensee provides financing assistance are less favorable to the licensee than the terms on which the associate provides financing assistance to the business firm.

Present law further provides that if the financing assistance provided by the associate of the licensee is of a different kind from the financing assistance provided by the licensee, the burden shall be on the licensee to prove that the terms on which the licensee provided financing assistance provided by the associate of the licensee is of a different kind from the financing assistance provided by the licensee, and the burden shall be on the licensee to prove that the terms on which the licensee provided financing assistance were at least as favorable to the licensee as the terms on which the associate provided financing assistance to the business firm.

Present law exempts a transaction effected by an associate of a licensee in the normal course of that associate's business involving a line of credit or short-term financing assistance.

Proposed law removes from the present law exemption the involvement of a line of credit or short-term financing assistance.

Effective August 1, 2018.

(Amends R.S. 51:2397(E), (F), and (G)(2)(c))