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c 127 Deposits Regulation Act

Ontario
CHAPTER 127

The Deposits Regulation Act

1. In this Act,

(a) "advertisement" includes any form of advertising in any medium or any act, conduct, communication or negotiation or any display, writing or statement made, done, issued or published to members of the public or in a public place;

(b) "Commission" means the Ontario Securities Commission;

(c) "corporation" means any incorporated corporation, incorporated association, incorporated syndicate or other incorporated organization, including corporations that do not deal with each other at arm's length or that would be deemed not to deal with each other at arm's length under section 1 of The Corporations Tax Act;

(d) "deposit" means a loan of money at interest or at a discount or repayable at a premium in money or otherwise made to any person or corporation one of whose principal businesses is lending money, dealing in mortgages of real or personal property or purchasing accounts receivable, but does not include a loan of money to any corporation in connection with the issue and sale of its bonds, debentures, notes or other written evidences of indebtedness;

(e) "members of the public" means any section or segment of the public without regard to the numbers thereof;

(f) "person" means an individual, partnership, unincorporated association, unincorporated organization and a syndicate other than an incorporated syndicate, including persons who are related persons or who would be deemed to be related persons under section 1 of The Corporations Tax Act;

(g) "regulations" means the regulations made under this Act;

(h) "short term securities" means bonds, debentures or other evidences of indebtedness maturing within 180 days from the date of acquisition thereof and authorized for purchase or investment by registered loan corporations under subsection 1 of section 150 of The Loan and Trust Corporations Act;
"solicitation of deposits" means any advertisement calculated directly or indirectly to lead to or induce the deposit of money or the investment of money on deposit by members of the public, and any reference to soliciting deposits shall be construed accordingly. 1962-63, c. 36, s. 1, amended.

2. This Act does not apply to,
   (a) any bank to which the Bank Act (Canada) applies;
   (b) any corporation to which The Loan and Trust Corporations Act applies;
   (c) any credit union to which The Credit Unions Act applies;
   (d) any issuer within the meaning of The Investment Contracts Act;
   (e) any corporation to which Part V of The Corporations Act applies;
   (f) any post office savings bank established under the Post Office Act (Canada);
   (g) the Province of Ontario Savings Office constituted under The Agricultural Development Finance Act;
   (h) any insurer to which The Insurance Act applies;
   (i) any mortgage broker registered under The Mortgage Brokers Act; or
   (j) any person or corporation or any class of persons or corporations that is exempted by the regulations. 1962-63, c. 36, s. 2, amended.

3. No person or corporation shall solicit deposits in any manner that is false, misleading, deceptive or likely to create an erroneous impression. 1962-63, c. 36, s. 3.

4.—(1) No advertisement soliciting deposits shall be made, done, issued or published in any manner whatsoever without such advertisement first having been submitted to the Commission for its review and certification as complying with the provisions of this Act and the regulations, and no such advertisement shall be made, done, issued or published without such certification.

   (2) Any person or corporation who, in the ordinary course of business, makes, issues or publishes an advertisement soliciting deposits on the order or direction of another person or corporation, being an advertisement the making, issue or publication of which by such other person or corporation constitutes an offence under this Act, is not guilty of such offence if the matter or material contained in such advertisement was not devised or selected by such person or corporation or under his or its direction or control. 1962-63, c. 36, s. 4.
5. (1) Every person or corporation accepting or receiving deposits from members of the public shall set aside and segregate and hold separate from the other assets of any such person or corporation as security for such deposits cash on hand or deposited in any bank to which the Bank Act (Canada) applies or short term securities in an amount or principal amount aggregating not less than 60 per cent of the aggregate amount of such deposits.

(2) Every person or corporation accepting or receiving deposits from members of the public shall keep records of such deposits and the particulars of the security therefor in the form and content prescribed by the Commission.

(3) Every person or corporation accepting or receiving deposits from members of the public shall furnish to the Commission a return in the prescribed form on or before the first days of January, April, July and October in each year containing information as to the particulars of the security for such deposits certified by the auditor or accountant of such person or corporation.

(4) Any duly authorized representative of the Commission appointed by order of the Commission may at any reasonable time inspect the books, accounts, documents and other records kept by any person or corporation receiving or accepting deposits from members of the public and may require any officer, director or employee of any such person or corporation to furnish such information as the Commission considers necessary for the purpose of ascertaining whether this Act and the regulations have been or are being complied with.

(5) For the purposes of subsection 4, any such representative of the Commission has the same power to summon and enforce the attendance of witnesses and to compel them to give evidence on oath or otherwise and to produce documents, records and things and to seize and take possession of any documents, records, securities or other property as is provided in subsections 3 and 4 of section 21 of The Securities Act. 1962-63, c. 36, s. 5.

6. Any advertisement submitted to the Commission for review and certification and every return, record or other information required to be filed with the Commission shall be accompanied by the fee prescribed by the regulations. 1962-63, c. 36, s. 6.

7. (1) Every person who contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $5,000 or to imprisonment for a term of not more than two years, or to both.

(2) Every corporation that contravenes any provision of this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $25,000.
(3) Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the fine or imprisonment or to both provided in subsection 1 whether or not the corporation has been prosecuted or convicted. 1962-63, c. 36, s. 7.

8. The Lieutenant Governor in Council may make regulations,

(a) exempting persons or corporations or any class thereof from the application of this Act;

(b) prescribing the requirements with respect to the submission to the Commission, for its review and certification, of advertisements that solicit deposits;

(c) prescribing the form and content of records of deposits and particulars of the security therefor;

(d) prescribing the return to be furnished to the Commission by persons or corporations receiving or accepting deposits containing information as to the particulars of security therefor;

(e) prescribing and providing for fees under this Act;

(f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1962-63, c. 36, s. 8.