DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

EDMUND G. BROWN, JR., Governor

WILLIE R. BARNES
Commissioner of Corporations

DATE January 31, 1975

RELEASE No. 3-C
(Revised)

SALE OF DEBT SECURITIES BY CHURCHES

This Release sets forth the standards and procedures which generally will be followed with respect to an application filed by a church for permit to issue promissory notes or other debt securities pursuant to Section 25113 of the Corporate Securities Law of 1968.

Under the Corporate Securities Law of 1968, the public sale of promissory notes or other debt securities by a church ordinarily must be qualified by obtaining a permit from the Commissioner of Corporations prior to the offer. If the offering of the church securities is addressed to the general public without limitation, compliance with the Rules of the Commissioner generally applicable to public offerings of debt securities is required, and reference should be had to these Rules, especially Rules 260.140.4 and 260.140.5. However, if the offering is limited to members of the church and persons closely related to them (see paragraph 5 below), the Commissioner will assume that their investment decision is based, in part at least, upon religious and charitable intentions. In that event, the church is expected to meet the following minimum requirements:

1. A written application for qualification of the sale and issuance of the securities must be filed with the Department, accompanied by the statutory filing fee (see paragraph 9, below). The application should have as its first page the facing page required by Section 260.110 of the Commissioner's Rules, and should contain the information required by Section 260.113 of said Rules. Form of the facing page and application for qualification by permit may be obtained at any office of the Department. The appropriate blanks of the facing page and application form should be completed as indicated thereon, and additional information as required below should be set forth in item 19 of the form.

2. If any portion of the net proceeds from the sale of the securities is to be used for the construction of a sanctuary or other real estate improvements, a detailed plan

of such construction and a statement of estimated cost should be set forth with respect to each part of the project. The cost estimate should be substantiated by a statement of a qualified contractor or other qualified and independent person. The application should show that with the proceeds of the proposed financing, the applicant will have funds sufficient to complete the project.

3. The application should show that the aggregate amount of indebtedness of the applicant, including that proposed to be incurred, will bear a reasonable relationship to the resources available to the applicant for the purpose of meeting commitments on account of principal and interest. For this purpose the applicant's receipts are computed on the basis of past experience. Inasmuch as many churches allocate one-third of their receipts for benevolent expenditures and one-third for operational costs, including salaries, an aggregate amount of indebtedness, including that proposed to be incurred, which can be serviced as to principal and interest with one-third of the applicant's weekly receipts, is presumptively reasonable. However, the applicant may be able to justify incurring a larger indebtedness by demonstrating its ability to devote more than one-third of its receipts to the service of its indebtedness, by demonstrating that an increase in its receipts is to be anticipated in line with significant past experience or as a result of the improvements to be provided with the proceeds of the proposed financing, or for other appropriate reasons.

4. The application should show that the board of trustees of the applicant has adopted a resolution, copy of which should be attached to the application as an exhibit;

   (a) providing for a fund devoted exclusively to the payment of interest and principal on the debt securities proposed to be issued and pledging a specified portion of the weekly receipts of the applicant to the payment of such interest and principal. The portion so pledged should be sufficient for the payment of current interest and maturing installments of principal;

   (b) providing that all monies collected from the sale of securities shall be accumulated in a trust account available only for expenditures on account of the project for which the indebtedness is to be incurred; and

(c) providing that such fund and trust account shall be maintained with and administered by a California bank or savings and loan association.

5. The application and offering circular should indicate that the sale of the debt securities will be limited to a group, each of which is an individual who, prior to his solicitation for the purchase of a note, was a member of, contributor to, or participant in, the church or in any specified program, activity or organization which constitutes a part of the church, or who is an ancestor or descendant of such an individual.

6. Because of the limited scope of the offering, commissions - if necessary at all - should be at reduced rates commensurate with the sales effort of the broker and taking into consideration any special services which may be rendered to the church. In any event, the amount payable on account of commissions shall not exceed 2 1/2% of the monies collected from the sale of securities.

7. Appropriate limitations should be imposed upon the transfer of the debt securities (and such limitations should be set forth and explained in the offering circular) so as to maintain ownership of the debt securities within the group as of the date of transfer specified pursuant to paragraph 5. Such limitations should allow transfers by way of sale only to members of such group but permit such debt securities to be transferred to any person by way of gift or as security for a loan.

8. The offering should be accompanied by full and complete disclosure of the terms and conditions of the proposed financing in terms which will be understood by the persons to whom the offering is directed. Such disclosure should be made by means of an offering circular prepared by the applicant and attached as an exhibit to the application. The offering circular should include a statement of the purposes to which the proceeds from the sale of securities will be applied, the resources available for repayment of the indebtedness with interest thereon, the manner in which such repayment is proposed to be made and the information specified in paragraph 7. If the purchasers of the securities are given the opportunity to make payment therefor by means of borrowing or other financing procedures, these procedures should be clearly set forth, and all expenses and charges, including those on account of interest or loss of interest, if any, should be disclosed. The offering circular should not include ambiguous or

misleading language. Such terms as "lay-away plan", "safe investment" or "revenue bonds" will not be approved. Unsecured promissory notes may not be described as "bonds".

9. The filing fee is $100 plus 1/10 of 1% of the face amount of the promissory notes or other debt securities sought to be sold in California. (The Law provides that in no event shall the aggregate fee be more than $1,500.00.)

10. If the permit is granted, it will ordinarily be effective for a period of 12 months.

In the discretion of the Commissioner, similar standards will be applied in analogous situations in which other charitable organizations are seeking financing.

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Commissioner of Corporations

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