



Commissioner's Report on the Offer or Sale of Securities by Permit
under Corporations Code Section 25113 for 2018



Introduction

Under California law, only securities that are qualified by the Department of Business Oversight (DBO) or exempt from qualification may be offered or sold in this state.¹ To qualify a security, application documents must be submitted to the DBO for review before money may be raised from investors. Securities that are exempt under state law need not be qualified by the DBO provided that issuers adhere to the rules which apply to the exemption under which they are operating.²

To increase real estate investor protections and provide greater transparency regarding the activities of issuers who solicit real estate investments, since 2013 the DBO has issued a yearly summary of securities qualified by permit pursuant to Corporations Code section 25113, subdivision (b).³ This report summarizes data for the previous calendar year and contains the following information:

- The general categories of investments for which permits were approved.
- The experience and net worth requirements imposed on issuers or sponsors.
- The total amount of money sought to be raised per category.
- Enforcement actions taken against permit holders.
- Any other information deemed relevant.

¹ See the Corporate Securities Law of 1968 (Corp. Code, § 25000 *et seq.*; Cal. Code Regs., tit. 10, § 260.140 *et seq.*).

² *Id.*

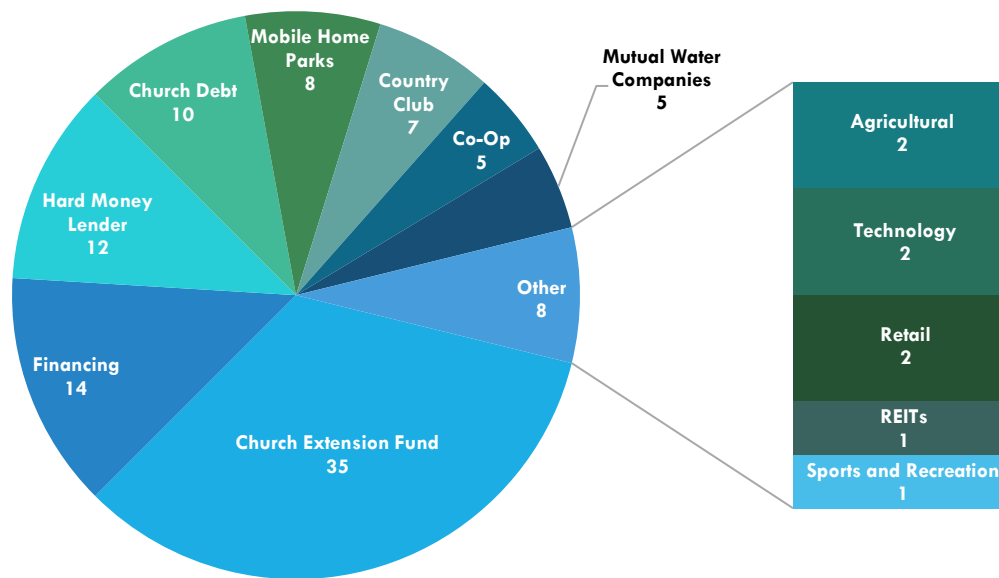
³ SB 879 (Vargas and Price); Corp. Code, § 25113, subd. (d).

2018 Summary

General Categories of Investment

In 2018, the DBO issued 104 permits under Corporations Code section 25113 in the following categories of investment: agriculture, banking, church debt, church extension funds, cooperatives,⁴ country clubs, educational services, financing,⁵ hard money lenders,⁶ manufacturing, media, mobile home parks, mutual water companies, real estate investment trusts (REITs), retail, sports and recreation, and technology.

Permits Issued by Category



⁴ Cooperatives include hardware retailers, grocers, and professional services providers.

⁵ Financing includes non-profit 501(c)(3) and for-profit companies financing through debt.

⁶ Hard money lenders include mortgage pools and fractional interest investments.

Investor Suitability Standards

The DBO has broad discretion to set standards for the offer and sale of securities.⁷ The DBO may require investors to meet specific qualifications related to experience, level of financial responsibility, tax status, or any other criteria the DBO deems necessary.⁸ These “investor suitability” standards are imposed as needed and depend upon the securities issued. As reflected in the table below, both the least stringent and most stringent standards varied by category of investment in 2018. For some investment categories, the suitability standard imposed was limited to California residents⁹ In most cases, however, the DBO restricted the offer and sale of the securities to persons having a minimum gross income and minimum net worth or limited the percent of net worth a person could invest.

Category of Investment	Least Stringent Standard	Most Stringent Standard
Church Extension Fund	For church members or affiliates of the church through program activity	\$250K/\$75K/\$75K + 10%
Financing	None (open qualification)	\$200K/\$1M net worth, sophisticated investors, plus 10% net worth cap
Hard Money Lender	None (open qualification)	\$65K/\$250K net worth or \$500K net worth plus 10% net worth cap
Church Debt	None (open qualification)	\$70K/\$70K net worth or \$250K net worth plus 10% net worth cap
Mobile Home Parks	California residents only	Mobile Home Members
Country Club	\$500/65/250	\$100K/\$500K net worth, \$200K Income or \$1M net worth
Cooperative	Co-op Worker	Physicians and surgeons licensed to practice in California only
Mutual Water Companies	Residents of limited dwellings only	Appurtenant to the land
Agricultural	Farmers, Producers	\$150K or \$75K/\$50K plus 10% net worth cap
Technology	None (open qualification)	Employees Only
Retail	None (open qualification)	Employees Only
REITs	None (open qualification)	\$75K/\$75K net worth or \$250K net worth plus 10% net worth cap
Sports and Recreation	None (open qualification)	\$75K/\$75K net worth or \$250K net worth plus 10% net worth cap

⁷ See Corp. Code, § 25000 *et seq.*; Cal. Code Regs., tit. 10, § 260.140 *et seq.*

⁸ Cal. Code Regs., tit. 10, § 260.140.01.

⁹ Cal. Code Regs., tit. 10, § 260.001, subd. (e).

Standards for Issuers or Sponsors

Experience Requirements

The securities permit application requires the issuer to explain the applicant's business experience. The DBO evaluates the issuer's explanation along with other information provided in the application. There is no experience requirement that applies to all issuers. However, regulations promulgated by the DBO set experience standards for issuers or sponsors in a real estate program¹⁰ and oil and gas offerings.¹¹

In a real estate program, the general partner of the sponsor must have at least two years of real estate experience or other experience relevant to acquiring and managing the types of properties sought by the program.¹² Additionally, any affiliate providing service to the program must have no less than four years of experience in the kind of service being rendered or otherwise demonstrate knowledge and experience to render the proposed services.¹³

In an oil and gas offering, the general partner or its chief operating officers must have at least three years of relevant oil and gas experience demonstrating the knowledge and experience to manage the operations.¹⁴ Additionally, the general partner or any affiliate providing services to the program must have at least four years of relevant experience in the services being rendered or otherwise demonstrate sufficient knowledge and experience to perform the proposed services.¹⁵

Net Worth Requirements

Corporations Code section 25113, subdivision (d), mandates that the DBO report on the "minimum, maximum, and average net worth required of those persons to whom permits are issued for each category." The DBO, however, generally does not require specific net worth or minimum capital requirements for the issuer or sponsor unless required to do so by rule. As such, regulations governing REITs,¹⁶ real estate programs,¹⁷ and oil and gas interests¹⁸ specify net worth requirements.

¹⁰ Cal. Code Regs., tit. 10, § 260.140.111.1.

¹¹ Cal. Code Regs., tit. 10, § 260.140.122.1.

¹² Cal. Code Regs., tit. 10, § 260.140.111.1.

¹³ *Id.*

¹⁴ Cal. Code Regs., tit. 10, § 260.140.122.1.

¹⁵ *Id.*

¹⁶ Cal. Code Regs., tit. 10, § 260.140.91.

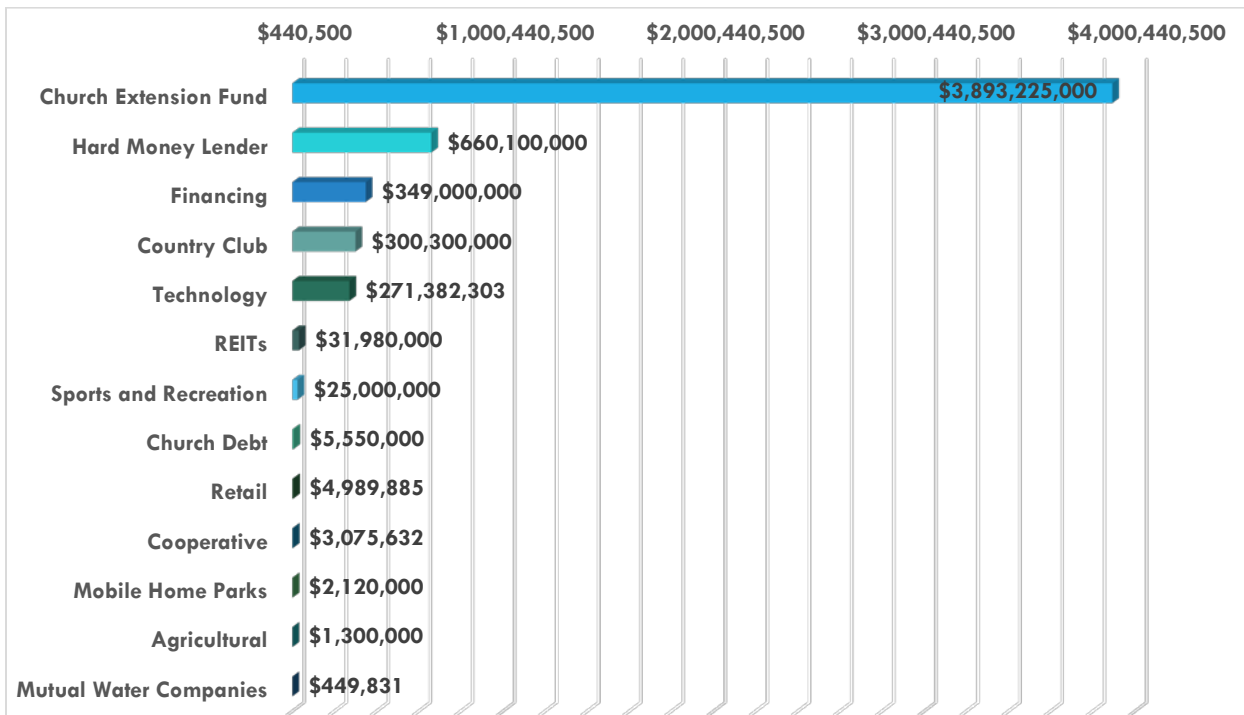
¹⁷ Cal. Code Regs., tit. 10, § 260.111.2.

¹⁸ Cal. Code Regs., tit. 10, § 260.140.122.2.

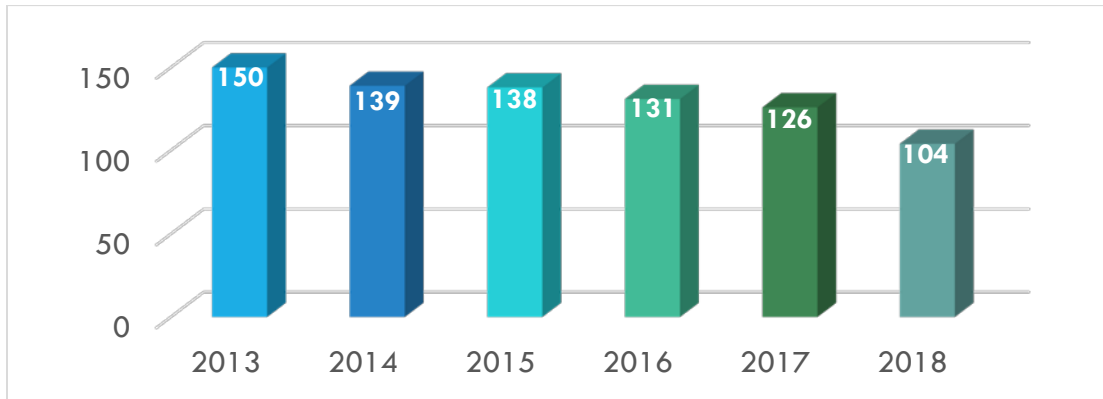
Issuer Standards

Category of Investment	Minimum Net Worth	Maximum Net Worth	Average Net Worth
Church Extension Fund	\$44,707	\$222,930,446	\$42,559,632
Financing	\$164,349	\$122,797,278	\$28,789,870
Hard Money Lender	\$40,339	\$107,622,191	\$14,398,743
Church Debt	\$2,788,376	\$83,191,397	\$16,356,234
Mobile Home Parks	(\$1,007,205)	\$24,631,829	\$6,093,263
Country Club	(\$11,832,536)	\$51,925,174	\$10,822,685
Cooperative	\$37,387	\$560,900,000	\$149,399,982
Mutual Water Companies	\$145,177	\$23,056,491	\$6,479,425
Agricultural	\$2,635,228	\$23,989,562	\$13,312,395
Technology	\$1,342,421,000	\$1,651,000,000	\$1,496,710,500
Retail	\$4,797,700,000	\$17,440,000,000	\$11,118,850,000
REITs	\$70,086,360	\$70,086,360	\$70,086,360
Sports and Recreation	(\$10,175)	(\$10,175)	(\$10,175)

Total Amount Sought to be Raised by Category



Yearly Trends



In 2018, the number of permits issued under Corporations Code section 25113 decreased by three percent from the prior year, representing a nineteen-percent decline over the past four years.

Enforcement Actions

In 2018, The Department of Business Oversight did not take any enforcement actions against permit holders.¹⁹

¹⁹ This number does not reflect any actions the DBO took against issuers offering unqualified securities in violation of Corporations Code section 25110.