

## **IC 28-1-13**

### **Chapter 13. Loans and Investments of Banks and Trust Companies**

#### **IC 28-1-13-1**

##### **Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

#### **IC 28-1-13-1.1**

##### **"Capital and surplus" or "unimpaired capital and unimpaired surplus" defined**

Sec. 1.1. As used in this chapter, "capital and surplus" or "unimpaired capital and unimpaired surplus" has the meaning set forth in 12 CFR 32.2.

*As added by P.L.14-1992, SEC.83. Amended by P.L.176-1996, SEC.13; P.L.213-2007, SEC.42; P.L.217-2007, SEC.40.*

#### **IC 28-1-13-1.2**

##### **"Loans and extensions of credit" defined**

Sec. 1.2. As used in this chapter, "loans and extensions of credit" has the meaning set forth in 12 CFR 32.2.

*As added by P.L.14-1992, SEC.84. Amended by P.L.90-2008, SEC.25.*

#### **IC 28-1-13-1.3**

##### **"Person" defined**

Sec. 1.3. As used in this chapter, "person" includes an individual, a sole proprietorship, a partnership, a joint venture, an association, a trust, an estate, a business trust, a limited liability company, a corporation, a sovereign government, or an agency, an instrumentality, or a political subdivision thereof, or any similar entity or organization.

*As added by P.L.14-1992, SEC.85. Amended by P.L.8-1993, SEC.439.*

#### **IC 28-1-13-1.4**

##### **Repealed**

*(Repealed by P.L.176-1996, SEC.35.)*

#### **IC 28-1-13-1.5**

##### **Limits on total loans and extensions of credit to one borrower; loans and extensions not fully secured; loans and extensions fully secured; derivative transactions**

Sec. 1.5. (a) The total loans and extensions of credit by a bank to a person outstanding at one (1) time and not fully secured, as determined in a manner consistent with subsection (b), by collateral having a market value at least equal to the amount of the loan or extension of credit may not exceed fifteen percent (15%) of the unimpaired capital and unimpaired surplus of the bank.

(b) The total loans and extensions of credit by a bank to a person

outstanding at one (1) time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the funds outstanding may not exceed ten percent (10%) of the unimpaired capital and unimpaired surplus of the bank. The limitation in this subsection is separate from and in addition to the limitation contained in subsection (a).

(c) The total loans and extensions of credit by a bank includes any credit exposure to a person arising from a derivative transaction (as defined in 12 U.S.C. 84(b)(3)) between the bank and the person.  
*As added by P.L.14-1992, SEC.87. Amended by P.L.27-2012, SEC.53.*

### **IC 28-1-13-1.6**

#### **Loans or extensions of credit not subject to limitations**

Sec. 1.6. The limitations contained in section 1.5 of this chapter are subject to the following exceptions:

(1) Loans or extensions of credit arising from the discount of commercial or business paper evidencing an obligation to the person negotiating it with recourse are not subject to any limitation based on capital and surplus.

(2) The purchase of bankers' acceptances of the kind described in 12 U.S.C. 372 and issued by other banks are not subject to any limitation based on capital and surplus.

(3) Loans and extensions of credit secured by bills of lading, warehouse receipts, or similar documents transferring or securing title to readily marketable staples are subject to a limitation of thirty-five percent (35%) of capital and surplus in addition to the general limitations if the market value of the staples securing each additional loan or extension of credit at all times equals or exceeds one hundred fifteen percent (115%) of the outstanding amount of the loan or extension of credit. The staples shall be fully covered by insurance whenever it is customary to insure such staples.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or Treasury bills of the United States or by other such obligation fully guaranteed as to principal and interest by the United States are not subject to any limitation based on capital and surplus.

(5) Loans or extensions of credit to or secured by unconditional takeout commitment or guarantees of any department, agency, bureau, board, commission, or establishment of the United States or any corporation wholly owned directly or indirectly by the United States are not subject to any limitation based on capital and surplus.

(6) Loans or extensions of credit secured by a segregated deposit account in the lending bank are not subject to any limitation based on capital and surplus.

(7) Loans or extensions of credit to any financial institution or to any receiver, conservator, superintendent of banks, or other

agent in charge of the business and property of the financial institution, when such loans or extensions of credit are approved by the director, are not subject to any limitation based on capital and surplus.

*As added by P.L.14-1992, SEC.88.*

#### **IC 28-1-13-1.7**

##### **Limit on total consumer credit obligation of one borrower**

Sec. 1.7. (a) Loans and extensions of credit arising from the discount of negotiable or nonnegotiable installment consumer paper that carries a full recourse endorsement or unconditional guarantee by the person transferring the paper is subject under this section to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements set forth in section 1.5(b) of this chapter.

(b) If the bank's files or the knowledge of the bank's officers of the financial condition of each maker of such consumer paper is reasonably adequate, and an officer of the bank designated for that purpose by the board of directors of the bank certifies in writing that the bank is relying primarily upon the responsibility of each maker for payment of the loans or extensions of credit and not upon any full or partial recourse endorsement or guarantee by the transferor, the limitations of this section as to the loans or extensions of credit of each such maker shall be the sole applicable loan limitations.

*As added by P.L.14-1992, SEC.89.*

#### **IC 28-1-13-1.8**

##### **Limit on obligations secured by documents or instruments covering livestock; dealer discount of paper securing sale of dairy cattle with payment guaranteed by seller**

Sec. 1.8. (a) Loans and extensions of credit secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent (115%) of the face amount of the note covered are subject under this section, notwithstanding the collateral requirements set forth in section 1.5(b) of this chapter, to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus.

(b) Loans and extensions of credit that arise from the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which paper carries a full recourse endorsement or unconditional guarantee of the seller and that are secured by the cattle being sold, are subject under this section, notwithstanding the collateral requirements set forth in section 1.5(b) of this chapter, to a limitation of twenty-five percent (25%) of the capital and surplus.

*As added by P.L.14-1992, SEC.90. Amended by P.L.141-2005, SEC.7.*

#### **IC 28-1-13-2**

**Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

**IC 28-1-13-3**

**Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

**IC 28-1-13-4**

**Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

**IC 28-1-13-5**

**Repealed**

*(Repealed by P.L.14-1992, SEC.165.)*

**IC 28-1-13-6**

**Extension of credit to officers, directors, or principal shareholders;  
compliance with federal restrictions**

Sec. 6. Any bank or trust company may extend credit to an officer, a director, or a principal shareholder in accordance with the restrictions and provisions of Regulation O of the Board of Governors of the Federal Reserve System (12 CFR 215).

*(Formerly: Acts 1933, c.40, s.200; Acts 1935, c.5, s.36; Acts 1937, c.33, s.28; Acts 1943, c.148, s.1; Acts 1955, c.25, s.1; Acts 1969, c.280, s.5.) As amended by Acts 1977, P.L.291, SEC.1; Acts 1978, P.L.2, SEC.2808; Acts 1981, P.L.250, SEC.1; P.L.265-1983, SEC.2; P.L.144-1984, SEC.1; P.L.14-1992, SEC.91.*

**IC 28-1-13-7**

**Repealed**

*(Repealed by P.L.33-1991, SEC.57.)*

**IC 28-1-13-7.1**

**State chartered banks; real estate loans**

Sec. 7.1. (a) As used in this section, "federally chartered bank" means a bank that was incorporated under 12 U.S.C. 21 et seq. and is doing business in Indiana.

(b) As used in this section, "rollover mortgage" means a loan that:

(1) is secured by a first mortgage on real estate improved by:

(A) a dwelling for one (1) to four (4) families; or

(B) a combination home and business building; and

(2) may be subject to rate adjustments at regularly scheduled times.

(c) As used in this section, "state chartered bank" means a bank that was incorporated under the laws of Indiana and is doing business in Indiana. The term includes a savings bank organized under the laws of Indiana.

(d) A state chartered bank may make, arrange, purchase, or sell loans or extensions of credit secured by liens or interests in real estate as:

- (1) may be so made, arranged, purchased, or sold by a federally chartered bank under a federal law or regulation; or
- (2) prescribed by order of the department or by a rule adopted by the department under IC 4-22-2.

(e) In addition to loans authorized by subsection (d), a state chartered bank may make rollover mortgage loans. A rollover mortgage loan made by a state chartered bank is subject to the following requirements and restrictions:

- (1) At each scheduled adjustment time, if the loan is not then in default, the lender shall make rate adjustments available for the amount of the outstanding loan for the remaining term of the loan.
- (2) Any adjustment in the loan must be made without administrative charges to the borrower.
- (3) Scheduled adjustments of the loan must be at least one (1) year apart.
- (4) The lender may not charge any penalty or other assessment for the prepayment of the loan by the borrower at the time of any adjustment.
- (5) At each scheduled adjustment time, the lender and the borrower may agree to increase or decrease the interest rate applicable to the outstanding balance of the loan.
- (6) At the option of the lender, the borrower may be granted the option to extend the amortization period for purposes of calculating monthly payments on the loan in accordance with the following rules:
  - (A) The extension of the amortization period may equal up to one-third (1/3) of the original amortization period, irrespective of whether this extends the amortization period beyond thirty (30) years.
  - (B) To the extent of any extension of the amortization period, the amortization period will be reduced upon a subsequent downward adjustment in the interest rate.

(f) The department may adopt an emergency rule under IC 4-22-2-37.1 to implement this section.

*As added by P.L.33-1991, SEC.16. Amended by P.L.42-1993, SEC.30; P.L.45-1995, SEC.20.*

### **IC 28-1-13-8**

#### **Loans on security of own shares; acquisition of shares; disposition**

Sec. 8. No bank or trust company shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss under a debt previously contracted in good faith; and stock so purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

*(Formerly: Acts 1933, c.40, s.202.)*

**IC 28-1-13-9****Repealed**

*(Repealed by P.L.42-1993, SEC.103.)*

**IC 28-1-13-10****Officer and others accepting compensation for procuring loan, purchase, or discount; violations**

Sec. 10. Except as otherwise provided, an officer, director, owner, partner, employee, or attorney of any bank or trust company who stipulates for, receives, or consents or agrees to receive, any fee, commission, gift, or thing of value, from any person, for the purpose of procuring or endeavoring to procure for any person any loan from or the purchase or discount of any paper, note, draft, check, or bill of exchange by the bank or trust company, commits a Class A misdemeanor.

*(Formerly: Acts 1933, c.40, s.204.) As amended by Acts 1978, P.L.2, SEC.2809.*

**IC 28-1-13-11****Reduction of existing obligations held in excess of limitations**

Sec. 11. Except as otherwise provided in this chapter, any bank or trust company which holds obligations of indebtedness in violation of the limitations prescribed in this chapter shall, not later than July 1, 1936, cause the amount of such obligations to conform to the limitations prescribed by this article and by the provisions of this chapter. The department may, in its discretion, extend the time for effecting such conformity, in individual instances, if the interests of the depositors will be protected and served by such extension. Upon the failure of any bank or trust company to comply with such limitations, in accordance with the terms of this section or in accordance with any order of the department with relation to such limitations, the department may declare that such bank or trust company is conducting its business in an unauthorized or unsafe manner and proceed in accordance with IC 28-1-3.1-2.

*(Formerly: Acts 1933, c.40, s.205.) As amended by P.L.263-1985, SEC.68.*

**IC 28-1-13-12****Loans or credit to student loan marketing association; applicability of capital and surplus limitation**

Sec. 12. Loans or extensions of credit to the Student Loan Marketing Association are not subject to any limitation based on capital and surplus.

*As added by P.L.14-1992, SEC.92.*

**IC 28-1-13-13****Applicability of federal regulations**

Sec. 13. The department may apply the provisions of 12 CFR 32 in the application and administration of this chapter.

*As added by P.L.14-1992, SEC.93.*