

IC 28-6.1-9

Chapter 9. Lending Limitations of Savings Banks

IC 28-6.1-9-1

"Capital and surplus" and "unimpaired capital and surplus" defined

Sec. 1. As used in this chapter, "capital and surplus" and "unimpaired capital and surplus" have the meaning set forth in 12 CFR 32.2.

As added by P.L.42-1993, SEC.72. Amended by P.L.176-1996, SEC.19; P.L.213-2007, SEC.64; P.L.217-2007, SEC.62.

IC 28-6.1-9-2

Loans and extensions of credit

Sec. 2. As used in this chapter, "loans and extensions of credit" includes all direct or indirect advances of funds to a person made on the basis of an obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person. To the extent specified by the department, the term includes a liability of a savings bank to advance funds to or on behalf of a person under a contractual commitment.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-3

Person

Sec. 3. As used in this chapter, "person" includes an individual, an association, a business trust, a corporation, an estate, a joint venture, a sole proprietorship, a partnership, a trust, a government, or an agency, an instrumentality, or a political subdivision of a government, or any similar entity.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-4

Repealed

(Repealed by P.L.176-1996, SEC.35.)

IC 28-6.1-9-5

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. 5. (a) The total loans and extensions of credit by a savings 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 savings bank.

(b) The total loans and extensions of credit by a savings 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 savings 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 savings 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 savings bank and the person.

As added by P.L.42-1993, SEC.72. Amended by P.L.27-2012, SEC.86.

IC 28-6.1-9-6

Exceptions to lending limitations

Sec. 6. The limitations contained in section 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 the loan or extension of credit 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 them.

(4) Loans or extensions of credit secured by bonds, notes, certificates of indebtedness, or treasury bills of the United States or by other similar obligations 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 an agency, a board, a bureau, a commission, a department, or other establishment of the United States or 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 a financial institution or to a receiver, conservator, superintendent of banks, or other agent in charge of the business and property of the financial institution, when the 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.42-1993, SEC.72.

IC 28-6.1-9-7

Loan limitations for commercial paper carrying full recourse endorsements or unconditional guarantees

Sec. 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 an unconditional guarantee by the person transferring the paper is subject to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements in section 5(b) of this chapter.

(b) If the savings bank's files or the knowledge of the savings bank's officers of the financial condition of each maker of the consumer paper is reasonably adequate, and an officer of the savings bank designated for that purpose by the board of the savings bank certifies in writing that the savings 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 maker are the only applicable loan limitations.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-8

Special limits for obligations secured by livestock or dairy cattle

Sec. 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 to a maximum limitation equal to twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements of section 5(b) of this chapter.

(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 to a limitation of twenty-five percent (25%) of the capital and surplus, notwithstanding the collateral requirements of section 5(b) of this chapter.

As added by P.L.42-1993, SEC.72. Amended by P.L.141-2005, SEC.10.

IC 28-6.1-9-9

Extensions of credit to officers, directors, trustees, and principal shareholders

Sec. 9. A savings bank may extend credit to an officer, a director,

a trustee, 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).

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-10

Loans or discounts on security and purchase or holding of bank's own capital stock

Sec. 10. (a) A stock savings bank may not:

(1) make a loan or discount on the security of the shares of its own capital stock; or

(2) be the purchaser or holder of shares of its own capital stock;

unless the security or purchase is necessary to prevent loss under a debt previously contracted in good faith.

(b) Stock that may be purchased or acquired under subsection (a) shall be sold or disposed of within six (6) months from the time of its purchase at public or private sale, unless otherwise ordered by the department.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-11

Conformity with lending limitations; sanctions

Sec. 11. (a) Except as otherwise provided in this article, a savings bank that holds obligations of indebtedness in violation of the limitations prescribed in this article shall take action to conform the amount of the obligations to the limitations prescribed by this article.

(b) If a savings bank fails to comply with the limitations of this article or an order of the department in relation to the limitations of this article, the department may find that the savings bank is conducting its business in an unauthorized or unsafe manner and proceed under IC 28-1-3.1-2.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-12

Exception to limitations for Student Loan Marketing Association loans and extensions of credit

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.42-1993, SEC.72.

IC 28-6.1-9-13

Repealed

(Repealed by P.L.27-2012, SEC.87.)

IC 28-6.1-9-14

Application of federal regulations

Sec. 14. The department may apply the provisions of 12 CFR 32 in the application and administration of this chapter.

As added by P.L.42-1993, SEC.72.

IC 28-6.1-9-15

Receiving fees, commissions, gifts, or things of value; violation

Sec. 15. Except as otherwise provided, an officer, a director, an owner, a partner, an employee, or an attorney of a savings bank who stipulates for, receives, or agrees to receive, a fee, commission, gift, or thing of value, from any person, for the purpose of procuring or attempting to procure for a person a loan from or the purchase or discount of a paper, note, draft, check, or bill of exchange by the savings bank commits a Class A misdemeanor.

As added by P.L.42-1993, SEC.72.