2.59.109 LOANS TO A MANAGING OFFICER, OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF A BANK

(1) The definitions of capital and unimpaired surplus are as follows:

(a) "Capital" shall mean the aggregate of the bank's outstanding capital stock account(s) minus any deficit balance existing in an impaired surplus account.

(b) "Surplus" is defined in 32-1-109 , MCA. "Unimpaired surplus" shall mean surplus minus any deficit balance existing after aggregating the bank's undivided profits account, profit and loss (or similar) account, capital reserve account(s) , valuation reserve account(s) and allocated or specific reserve account(s) .

(2) Any loan to a managing officer, officer, director, employee or principal shareholder which was made before October 1, 1993, and which was in compliance with state law at the time, shall be considered legal throughout its term unless:

(a) the loan is renewed, or

(b) the terms of the loan are modified in any way, except for specified periodic interest rate adjustments, or

(c) security for the loan is changed in any way, except for substitutions or deletions agreed upon at the origination of the loan.

(i) If (a) , (b) or (c) occur on or after October 1, 1993, the loan shall be restructured to comply with the provisions of 32-1-465 and 32-1-467 , MCA, as amended.

(3) The following types of loans will not be included in the 2.5% of capital and unimpaired surplus aggregate loan limitation:

(a) loans or portions of loans guaranteed by a department, bureau, board, commission or establishment of the United States, including a corporation wholly owned, directly or indirectly, by the United States;

(b) loans or portions of loans guaranteed by or covered by a commitment or agreement to take over or purchase, issued by an agency or board of the state of Montana;

(c) loans or portions of loans sold without recourse to a federally insured depository institution;

(d) loans or portions of loans secured by pledged deposits in the lending bank.

Authorizing statute(s): 32-1-465, 32-1-467, MCA

Implementing statute(s): 32-1-467, MCA

History: NEW, 1993 MAR p. 2776, Eff. 11/25/93; TRANS, from Commerce, 2001 MAR p. 1178.