

TITLE 26
BANKS AND BANKING

CHAPTER 8
LIMITATIONS ON BORROWING MONEY AND PLEDGING ASSETS

26-801. BORROWING MONEY -- LIMITATIONS. At no time shall the total borrowings of any bank exceed in the aggregate an amount equal to the capital structure of the bank, except with the consent of the director.

For the purpose of computing total borrowings the following items shall not be included:

- (1) Federal funds purchased.
- (2) The sale of securities by a bank, under an agreement to repurchase at the end of a stated period.
- (3) Borrowings from the federal reserve system.
- (4) The sale of mortgage loans by a bank, under agreement to repurchase at the end of a stated period.
- (5) Money borrowed to meet seasonal requirements.
- (6) Money borrowed to meet unexpected withdrawals.
- (7) Capital notes issued in accordance with section [26-802](#), Idaho Code.
- (8) Borrowing from federal home loan banks.

The total of all borrowings by a bank including those items excluded from the computation of total borrowings may not exceed in the aggregate an amount equal to two and one-half (2 1/2) times the capital structure of the bank, except with the consent of the director.

Whenever it shall appear to the director that a bank is borrowing money in excess of the above limitation, or for purposes other than as specified above, he may require it to reduce such borrowings within a time to be fixed by him.

[26-801, added 1979, ch. 41, sec. 2, p. 94; am. 2004, ch. 159, sec. 16, p. 524; am. 2007, ch. 126, sec. 5, p. 378.]

26-802. ISSUANCE OF CONVERTIBLE OR NONCONVERTIBLE CAPITAL DEBENTURES AND NOTES. The issuance of convertible or nonconvertible capital debentures and notes by banks in accordance with normal business considerations is permissible.

With the consent of the director, every bank is, however, authorized to issue and sell its capital notes or debentures, for all capital purposes, in an amount not to exceed one hundred percent (100%) of its unimpaired, paid-in capital stock, plus fifty percent (50%) of its unimpaired surplus fund. A bank may, with the approval of stockholders owning two-thirds (2/3) of the stock of the bank, entitled to vote, or without such approval if authorized by its articles of incorporation, issue convertible or nonconvertible capital debentures and notes in such amounts and under such terms and conditions as shall be approved by the director.

[26-802, added 1979, ch. 41, sec. 2, p. 95.]

26-803. BORROWING FROM FEDERAL AGENCIES. With the consent of the director, a bank may borrow from any agency of the United States. The limitations imposed on borrowing by this chapter shall not apply to borrowings under this section.

[26-803, added 1979, ch. 41, sec. 2, p. 95.]

26-804. BORROWING MONEY -- ACCOUNTING. No officer or employee of any bank shall issue the note of such corporation for money borrowed or rediscount any of its paper, or pledge or hypothecate any of its assets, except when authorized by resolution of its board of directors, or by an authorized committee thereof.

All borrowings shall be carried on the books of the bank, and in all reports of such bank under liabilities.

All rediscounted paper containing the endorsement of or guarantee of the bank discounting the same, except when endorsed without recourse, shall be carried on the books of the bank and in all reports of such bank under liabilities as "rediscounts," until the same are actually paid by the makers, other than by renewal, or the rediscounting bank itself takes up the paper.

[26-804, added 1979, ch. 41, sec. 2, p. 95.]

26-805. EXTENT ASSETS MAY BE PLEDGED. No bank, banker or bank officer shall, except as otherwise authorized by law, pledge or hypothecate as collateral security for money borrowed, its assets in a ratio exceeding one and one-half (1 1/2) times the amount borrowed (except as otherwise authorized by the director).

[26-805, added 1979, ch. 41, sec. 2, p. 96.]

26-806. GIVING SECURITY FOR DEPOSIT PROHIBITED. It shall be unlawful for any bank to pledge, mortgage or hypothecate to any depositor any of its real or personal property as security for any deposit except money of the United States, the state of Idaho and its political subdivisions, and deposits for which security is required by any law of the United States, or required or permitted by any other statute of this state. Any pledge, mortgage or hypothecation made in violation hereof shall be unenforceable and void and any person, firm or corporation, holding or receiving any security or securities mortgaged or hypothecated, pledged or attempted to be pledged, shall, upon demand of any officer, director or stockholder of the bank or the director, be required forthwith to make return thereof, and the repayment of any deposit shall not be prerequisite to the recovery of any property so unlawfully pledged, hypothecated or mortgaged.

[26-806, added 1979, ch. 41, sec. 2, p. 96; am. 1998, ch. 406, sec. 1, p. 1262.]