

187—9.2(17A,524) Real estate lending. This rule is promulgated to provide more uniformity with the final guidelines adopted by the Federal Deposit Insurance Corporation, the Federal Reserve System, and the Department of the Treasury. This rule shall apply to real estate loans either originated by the state bank or acquired by purchase, assignment, or otherwise.

9.2(1) *Written policy.* The board of directors of the state bank shall formulate and maintain a written real estate lending policy that is appropriate for its size and the nature and scope of its operation. Each policy must be comprehensive and consistent with safe and sound lending practices. The standards and limits established in the policy must be reviewed and approved at least annually by the board. The real estate lending policy should reflect the level of risk that is acceptable to the board and should provide clear and measurable underwriting standards that enable the state bank's lending staff to evaluate all relevant credit factors. The real estate lending policy, at a minimum, should:

- a. Identify the geographic area where the state bank will consider lending.
- b. Establish loan portfolio diversification standards.
- c. Set appropriate terms and conditions by type of real estate loan.
- d. Establish loan origination and approval procedures.
- e. Establish prudent underwriting standards which include clear and measurable loan-to-value limitations.
- f. Establish review and approval procedures for exempted loans.
- g. Establish loan administration procedures.
- h. Establish real estate appraisal and evaluation programs.
- i. Monitor the portfolio and provide timely reports to the board of directors.
- j. Establish procedures for conformance with secondary market investor requirements where applicable.

When formulating the real estate policy, the board should consider both internal and external factors, such as size and condition of the state bank, expertise of its lending staff, avoidance of undue concentrations of risk, compliance with all real estate-related laws and rules, and general market conditions.

9.2(2) *Loan-to-value limits.* The board of directors of the state bank shall establish its own internal loan-to-value (LTV) limits for real estate loans.

9.2(3) *In transit loans.* Real estate loans made for sale into the secondary market shall be considered in transit for a period of 90 days after being sold and shall not be considered risk assets for reserving purposes during this time period.

9.2(4) *Evidence of title.* The state bank shall obtain, when lending for the purpose of acquisition or for the purpose of refinancing of acquisition when a new mortgage, deed of trust, or similar instrument is filed, one of the following:

- a. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the state bank's mortgage, deed of trust, or similar instrument is a lien on the real estate. An Iowa title guaranty certificate issued by the Iowa title guaranty division of the Iowa finance authority satisfies this requirement.
- b. Title insurance written by an insurance company licensed to do business in the state in which the real property is located describing any existing liens and insuring the title to the real property and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a lien on the real property.

9.2(5) *Exceptions.* There are certain real estate transactions in which other factors significantly outweigh the need to apply the provisions of this rule. Therefore, the following transactions are exempt from this rule:

- a. Loans guaranteed, insured, or for which a written commitment for such has been issued by the U.S. government or its agencies.
- b. Loans guaranteed, insured, or for which a written commitment for such has been issued by the state of Iowa, a political subdivision, or agency thereof, provided that the state bank has determined

that the guarantor or insurer has the financial capacity and willingness to perform under the terms of the agreement.

c. Acceptance of real estate as collateral to secure debts previously contracted in good faith.

d. Securities collateralized by real estate, but in which a state bank may invest pursuant to Iowa Code section 524.901.

e. With the prior approval of the superintendent, any other loans approved, issued, insured or guaranteed by any other federal or state-sponsored program.

9.2(6) *Exempted transactions.* In addition to the exemptions set forth in subrule 9.2(5), it may be appropriate, in light of all relevant credit considerations, including community reinvestment factors, for state banks, in certain instances, to originate or purchase real estate loans that do not meet the requirements of this rule. State banks shall be allowed to make such loans; however, the aggregate amount of all real estate loans that fall into this category shall not exceed aggregate capital as reflected on the state bank's most recent consolidated report of condition, unless prior approval to exceed this limitation has been obtained from the superintendent. These exempted loans must be identified by the board of directors by name and outstanding balance and must be reviewed by the board no less frequently than annually. Examiners, during the course of their examinations, will determine whether these exempted loans are adequately documented and appropriate in light of overall safety and soundness considerations. No real estate loans to directors, officers, or principal shareholders or their related interests shall be allowed in the exempted category of this subrule.

This rule is intended to implement Iowa Code section 524.905.

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