

**IOWA DIVISION OF BANKING
LEGAL LENDING LIMIT GUIDANCE – IOWA CODE 524.904**

This job aid is intended to assist State and Federal regulators and bankers in applying the provisions of Iowa Code section 524.904. Specifically, the job aid addresses the provisions that limit the loans and extensions of credit to one borrower and borrowing groups. The utilization of tables, diagrams, and defining common terminology is meant to give a better understanding of the code language and promote a standardized application of this code section. However, this document will not cover all legal lending limit situations or replace the language contained within the Iowa Code. Iowa Code section 524.904 can be found in its entirety in Appendix A of this document and should be consulted for complete information.

**IOWA DIVISION OF BANKING
LEGAL LENDING LIMIT GUIDANCE—“ONE BORROWER”**

Loans and Extensions of Credit to One Borrower¹

Includes: 524.904(1), subsection—

Excludes: 524.904(7), subsection—

A. Standby letters of credit or other similar arrangements.	A. Protective advances for taxes and insurance.
B. Maker/endorser’s obligation arising from a state bank’s discount of commercial paper.	B. Accrued/discounted interest.
C. Reverse repurchase agreements.	C. Participations sold on a pro-rata nonrecourse basis.
D. Bank’s share of a loan participation less any dealer reserves held by the state bank.	D. Portions secured by a segregated deposit account which the bank may lawfully set off.
E. Overdrafts.	E. Loans/extensions to banks.
F. Amounts paid against uncollected funds.	F. Loans/extensions fully secured by bonds the bank can invest in without limitation (524.901(3))
G. Non-ledger debt, unless discharged, forgiven, or no longer legally enforceable.	G. Loans/extensions to, secured by, or guaranteed by a federal reserve bank, the U.S. government, or U.S. agency, department, bureau, etc.
H. Aggregate rentals payable under leases of personal property by the state bank as lessor.	H. Loans and extensions of credit to one borrower as the drawer of drafts drawn in good faith against actually existing values in connection with a sale of goods which have been endorsed by the borrower with recourse or which have been accepted.
I. Investments in which the bank invested (524.901)	I. Loans and extensions of credit arising out of the discount of commercial paper actually owned by a borrower negotiating the same and endorsed by a borrower without recourse and which is not subject to the repurchase by a borrower.
J. Amounts invested by a state bank for its own account in the shares and obligations of a corporation which is a customer of the bank.	J. Loans and extensions of credit drawn by a borrower in good faith against actually existing values and secured by negotiable bills of lading for goods in process of shipment.
K. All other loans and extensions not excluded by 524.904(7)	K. Acceptances of other banks described in 524.903(3)
	L. Acceptances by the state bank for the account of the borrower pursuant to 524.903(1)
	M. A renewal or restructuring following reasonable efforts to bring the loan into conformance, unless new funds are advanced, a new borrower replaces the original, or the Superintendent determines the renewal or restructure was undertaken as a means to evade the lending limit.

¹ Refer to Iowa Code sections 524.904(1) and 524.904(7) for specific language.

One Borrower Limitations²

524.904(2)—A state bank may grant loans/extensions of credit to one borrower in an amount not to exceed fifteen percent of aggregate capital unless additional provisions described in subsections 3 or 4 apply.

Additional Borrowing Privileges Granted to One Borrower³

524.904(3)—A state bank may grant loans/extensions of credit to one borrower in an amount not to exceed twenty-five percent of aggregate capital, as long as any amount above the fifteen percent limitation is fully secured by one or more of the following:

- A. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title to readily marketable *nonperishable staples* when covered by insurance (to the extent it is customary) and the market value is not at any time less than 120 percent of the secured debt.
- B. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title to readily marketable *refrigerated or frozen staples* when covered by insurance and the market value is not at any time less than 120 percent of the secured debt.
- C. Shipping documents or instruments that secure title to or give a first lien on *livestock*, provided:
 - At inception, the current value of livestock securing the debt equals at least 100 percent of the outstanding debt.
 - The state bank maintains in its file evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current.
- D. Mortgage, deed of trust, or similar instrument granting a first lien on *farmland or on single-family or two-family residences* provided the loan amount doesn't exceed 50 percent of appraised value.
- E. With the prior approval of the superintendent, *other readily marketable collateral*, as long as the market value of collateral equals at least 100 percent of the outstanding debt.

524.904(4)—A state bank may grant loans/extensions of credit to one borrower in an amount not to exceed thirty-five percent of aggregate capital, as long as any amounts exceeding the fifteen and twenty-five percent limitations listed above consists of obligations arising from *chattel paper*.

² Refer to Iowa Code section 524.904(2) for specific language.

³ Refer to Iowa Code sections 524.904(3) and 524.904(4) for specific language.

**IOWA DIVISION OF BANKING
LEGAL LENDING LIMIT GUIDANCE – “RELATED BORROWERS”**

Does/Is any of the debt:⁴

- For the benefit of a related borrower?
- Have a common source of repayment?
- Have an endorsement or guaranty that is relied upon?
- To a partnership, joint venture, association, or “d/b/a—doing business as”?
- So interrelated that it should be considered “One Borrower”?

No

Yes

Do one or more persons:⁵

- Own or control 50 percent or more of the voting shares?
- Control the election of a majority of the directors, managers, trustees, or similar persons?
- Have the power to vote 50 percent or more of the voting shares?

Considered “One Borrower.”

Yes

No

Considered a borrowing group.

- In total, all borrowers are limited to 25 percent of aggregate capital.
- Separately, each borrower must comply with “One Borrower” limits.

Unrelated borrowers. Separately, each borrower must comply with “One Borrower” limits.

Institutions may go up to 50 percent of aggregate capital on a borrowing group with *prior* approval of the Superintendent of Banking. (See Appendix B for additional information.) To demonstrate compliance with this section of the Iowa Code, a state bank shall maintain in its files, at a minimum, all of the following:⁶

- The current ownership of the borrowing entity.
- The persons who have voting rights in the borrowing entity.
- The board of directors and senior management of the borrowing entity.
- The bank’s assessment of the borrowing entity’s means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrowing entity’s financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrowing entity by members of the borrowing group and third parties.

⁴ Refer to Iowa Code section 524.904(6) for specific language.

⁵ Refer to Iowa Code section 524.904(5) for specific language.

⁶ Refer to Iowa Code sections 524.904(5)(c)(1–4) for specific language.

IOWA DIVISION OF BANKING
LEGAL LENDING LIMIT GUIDANCE—TERMINOLOGY

Aggregate Capital—524.103(3)

The sum of capital (see definition below), surplus, undivided profits and reserves as of the most recent calculation date.

Calculation Date—524.103(13)

The most recent of the following:

- Thirty days after the end of each calendar quarter.
- The date an event occurs that reduces or increases the bank's aggregate capital by 10 percent or more.
- As the Superintendent may direct.

Capital—524.103(14)

The sum of the par value of the preferred and common shares of a state bank issued and outstanding.

Common Source of Repayment—524.904(6)(a)(2)

The expected source of repayment for each loan or extension of credit is the same for each borrower *and* no borrower has another source of income from which the loan may be fully repaid.

Debt to a Partnership, Joint Venture, Association, of "D/B/A—Doing Business As"

These are not legal entities; therefore, debts are obligations of the individuals involved.

Endorsement/Guaranty Relied Upon—524.904(6)(d)

Loans and extensions of credit to one borrower which are endorsed or guaranteed by another borrower will not be combined with loans and extensions of credit to the endorser or guarantor unless the endorsement or guaranty is relied upon as a basis for the loans and extensions of credit. A state bank shall not be deemed to have violated this section if the endorsement or guaranty is relied upon after inception of loans and extensions of credit, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to one borrower in the amount in excess of the limitations of this section within a reasonable time as fixed by the superintendent.

For Benefit Of—524.904(6)(a)(1)

The proceeds, or assets purchased with the proceeds, benefit another person, other than a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.

Persons—524.904(5)(b)

For purposes of the borrowing group, a person is defined as an individual, a corporation, limited liability company, partnership, trust, association, or any other legal entity.

So Interrelated—524.904(6)(e)

Interrelated borrowers include, but are not limited to, borrowers having separate operations that cannot exist without each other, borrowers sharing collateral, borrowers commingling assets, borrowers sharing operational proceeds, or borrowers for whom there is a common source of repayment for the borrowers' loans.

APPENDIX A

524.904 Loans and extensions of credit to one borrower.

1. For purposes of **this section**, “loans and extensions of credit” means a state bank’s direct or indirect advance of funds to a borrower based on an obligation of that borrower to repay the funds or repayable from specific property pledged by the borrower and shall include:
 - a. A contractual commitment to advance funds, as defined in **section 524.103**.
 - b. A maker or endorser’s obligation arising from a state bank’s discount of commercial paper.
 - c. A state bank’s purchase of securities subject to an agreement that the seller will repurchase the securities at the end of a stated period.
 - d. A state bank’s purchase of third-party paper subject to an agreement that the seller will repurchase the paper upon default or at the end of a stated period. The amount of the state bank’s loan is the total unpaid balance of the paper owned by the state bank less any applicable dealer reserves retained by the state bank and held by the state bank as collateral security. Where the seller’s obligation to repurchase is limited, the state bank’s loan is measured by the total amount of the paper the seller may ultimately be obligated to repurchase. A state bank’s purchase of third-party paper without direct or indirect recourse to the seller is not a loan or extension of credit to the seller.
 - e. An overdraft.
 - f. Amounts paid against uncollected funds.
 - g. Loans or extensions of credit that have been charged off the books of the state bank in whole or in part, unless the loan or extension of credit has become unenforceable by reason of discharge in bankruptcy; or is no longer legally enforceable because of expiration of the statute of limitations or a judicial decision; or forgiven under an executed written agreement by the state bank and the borrower.
 - h. The aggregate rentals payable by the borrower under leases of personal property by the state bank as lessor.
 - i. Loans and extensions of credit to one borrower consisting of investments in which the state bank has invested pursuant to **section 524.901**.
 - j. Amounts invested by a state bank for its own account in the shares and obligations of a corporation which is a customer of the state bank.
 - k. All other loans and extensions of credit to one borrower of the state bank not otherwise excluded by **subsection 7**, whether directly or indirectly, primarily or secondarily.
2. A state bank may grant loans and extensions of credit to one borrower in an amount not to exceed fifteen percent of the state bank’s aggregate capital as defined in **section 524.103**, unless the additional lending provisions described in **subsection 3** or **4** apply.
3. A state bank may grant loans and extensions of credit to one borrower in an amount not to exceed twenty-five percent of the state bank’s aggregate capital if any amount that exceeds the lending limitation described in **subsection 2** is fully secured by one or any combination of the following:
 - a. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable nonperishable staples when such goods are covered by insurance to the extent that insuring the goods is customary, and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.
 - b. Nonnegotiable bills of lading, warehouse receipts, or other documents transferring or securing title covering readily marketable refrigerated or frozen staples when such goods are fully covered by insurance and when the market value of the goods is not at any time less than one hundred twenty percent of the amount of the loans and extensions of credit.
 - c. Shipping documents or instruments that secure title to or give a first lien on livestock. At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of **this section**, “livestock” includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock

held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The state bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

- d. Mortgages, deeds of trust, or similar instruments granting a first lien on farmland or on single-family or two-family residences, subject to the provisions of **section 524.905**, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.
 - e. With the prior approval of the superintendent, other readily marketable collateral. The market value of the collateral securing the loans must at all times equal at least one hundred percent of the outstanding loans and extensions of credit.
4. A state bank may grant loans and extensions of credit to one borrower not to exceed thirty-five percent of the state bank's aggregate capital if any amount that exceeds the lending limitations described in **subsection 2** or **3** consists of obligations as endorser of negotiable chattel paper negotiated by endorsement with recourse, or as unconditional guarantor of nonnegotiable chattel paper, or as transferor of chattel paper endorsed without recourse subject to a repurchase agreement.
- 5.
- a. A state bank may grant loans and extensions of credit to a borrowing group in an amount not to exceed twenty-five percent of the state bank's aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2** or **3**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member. A state bank may grant loans and extensions of credit to a borrowing group in an amount not to exceed thirty-five percent of aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2, 3, or 4**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member. While not to be construed as an endorsement of the quality of any loan or extension of credit, the superintendent may authorize a state bank to grant loans and extensions of credit to a borrowing group in an amount not to exceed fifty percent of aggregate capital if all loans and extensions of credit to any one borrower within a borrowing group conform to **subsection 2** or **3**, and the financial strength, assets, guarantee, or endorsement of any one borrowing group member is not relied upon as a basis for loans and extensions of credit to any other borrowing group member.
 - b. For the purposes of **this subsection**, a borrowing group includes a person and any legal entity, including but not limited to corporations, limited liability companies, partnerships, trusts, and associations where the following exist:
 - (1) One or more persons own or control fifty percent or more of the voting securities or membership interests of the borrowing entity or a member of the group.
 - (2) One or more persons control, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of the borrowing entity or a member of the group.
 - (3) One or more persons have the power to vote fifty percent or more of any class of voting securities or membership interests of the borrowing entity or a member of the group.
 - c. To demonstrate compliance with **this subsection**, a state bank shall maintain in its files, at a minimum, all of the following:
 - (1) Documentation demonstrating the current ownership of the borrowing entity.
 - (2) Documentation identifying the persons who have voting rights in the borrowing entity.
 - (3) Documentation identifying the board of directors and senior management of the borrowing entity.

(4) The state bank's assessment of the borrowing entity's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrowing entity's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrowing entity by members of the borrowing group and third parties.

6. For purposes of **this section**:

- a. Loans and extensions of credit to one person will be attributed to another person and will be considered one borrower if either of the following apply:
 - (1) The proceeds, or assets purchased with the proceeds, benefit another person, other than a bona fide arm's length transaction where the proceeds are used to acquire property, goods, or services.
 - (2) The expected source of repayment for each loan or extension of credit is the same for each borrower and no borrower has another source of income from which the loan may be fully repaid.
- b. Loans and extensions of credit to a partnership, joint venture, or association are deemed to be loans and extensions of credit to each member of the partnership, joint venture, or association. This provision does not apply to limited partners in limited partnerships or to members of joint ventures or associations if the partners or members, by the terms of the partnership or membership agreement or other written agreement, are not to be held generally liable for the debts or actions of the partnership, joint venture, or association, and those provisions are valid under applicable law.
- c. Loans and extensions of credit to members of a partnership, joint venture, or association are not attributed to the partnership, joint venture, or association unless loans and extensions of credit are made to the member to purchase an interest in the partnership, joint venture, or association, or the proceeds are used for a common purpose with the proceeds of loans and extensions of credit to the partnership, joint venture, or association.
- d. Loans and extensions of credit to one borrower which are endorsed or guaranteed by another borrower will not be combined with loans and extensions of credit to the endorser or guarantor unless the endorsement or guaranty is relied upon as a basis for the loans and extensions of credit. A state bank shall not be deemed to have violated **this section** if the endorsement or guaranty is relied upon after inception of loans and extensions of credit, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to one borrower in the amount in excess of the limitations of **this section** within a reasonable time as fixed by the superintendent.
- e. When the superintendent determines the interests of a group of more than one borrower, or any combination of the members of the group, are so interrelated that they should be considered a unit for the purpose of applying the limitations of **this section**, some or all loans and extensions of credit to that group of borrowers existing at any time shall be combined and deemed loans and extensions of credit to one borrower. A state bank shall not be deemed to have violated **this section** solely by reason of the fact that loans and extensions of credit to a group of borrowers exceed the limitations of **this section** at the time of a determination by the superintendent that the indebtedness of that group must be combined, but the state bank shall, if required by the superintendent, dispose of loans and extensions of credit to the group in the amount in excess of the limitations of **this section** within a reasonable time as fixed by the superintendent.

7. Total loans and extensions of credit to one borrower for the purpose of applying the limitations of **this section** shall not include any of the following:

- a. Additional funds advanced for taxes or for insurance if the advance is for the protection of the state bank.
- b. Accrued and discounted interest on existing loans or extensions of credit.
- c. Any portion of a loan or extension of credit sold as a participation by a state bank on a nonrecourse basis, provided that the participation results in a pro rata sharing of credit risk proportionate to the

respective interests of the originating and participating lenders. Where a participation agreement provides that repayment must be applied first to the portions sold, a pro rata sharing will be deemed to exist only if the agreement also provides that in the event of a default or comparable event defined in the agreement, participants must share in all subsequent repayments and collections in proportion to their percentage participation at the time of the occurrence of the event. If an originating state bank funds the entire loan, it must receive funding from the participants on the same day or the portions funded will be treated as loans by the originating state bank to the borrower.

- d. Loans and extensions of credit to one borrower to the extent secured by a segregated deposit account which the state bank may lawfully set off. An amount held in a segregated deposit account in the name of more than one customer shall be counted only once with respect to all borrowers. Where the deposit is eligible for withdrawal before the secured loan matures, the state bank must establish internal procedures to prevent release of the security without the state bank's prior consent.
- e. Loans and extensions of credit to one borrower which is a bank.
- f. Loans and extensions of credit to one borrower which are fully secured by bonds and securities of the kind in which a state bank is authorized to invest for its own account without limitation under **section 524.901, subsection 3.**
- g. Loans and extensions of credit to a federal reserve bank or to the United States, or of any department, bureau, board, commission, agency, or establishment of the United States, or to any corporation owned directly or indirectly by the United States, or loans and extensions of credit to one borrower to the extent that such loans and extensions of credit are fully secured or guaranteed or covered by unconditional commitments or agreements to purchase by a federal reserve bank or by the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States. Loans and extensions of credit to one borrower secured by a lease on property under the terms of which the United States, or any department, bureau, board, commission, agency, or establishment of the United States, or any corporation owned directly or indirectly by the United States, or the state of Iowa, or any political subdivision of the state, is lessee and under the terms of which the aggregate rentals payable to the borrower will be sufficient to satisfy the amount loaned are considered to be loans and extensions of credit secured or guaranteed as provided for in this paragraph.
- h. Loans and extensions of credit to one borrower as the drawer of drafts drawn in good faith against actually existing values in connection with a sale of goods which have been endorsed by the borrower with recourse or which have been accepted.
- i. Loans and extensions of credit arising out of the discount of commercial paper actually owned by a borrower negotiating the same and endorsed by a borrower without recourse and which is not subject to repurchase by a borrower.
- j. Loans and extensions of credit drawn by a borrower in good faith against actually existing values and secured by nonnegotiable bills of lading for goods in process of shipment.
- k. Loans and extensions of credit in the form of acceptances of other banks of the kind described in **section 524.903, subsection 3.**
- l. Loans and extensions of credit of the borrower by reason of acceptances by the state bank for the account of the borrower pursuant to **section 524.903, subsection 1.**
- m. A renewal or restructuring of a loan as a new loan or extension of credit following the exercise by a state bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the state bank to the borrower or unless a new borrower replaces the original borrower or unless the superintendent determines that the renewal or restructuring was undertaken as a means to evade the state bank's lending limit.

APPENDIX B

Lending Limit: Guidelines for Superintendent Approval to Lend in Excess of 25 percent (up to 50 percent) of a Bank's Aggregate Capital to Borrowing Groups

- The Superintendent will entertain requests to approve a bank to loan up to 50 percent of its aggregate capital to borrowing groups on a bank basis. The Superintendent will not approve requests to exceed 25 percent on individual loans.
- A bank requesting Superintendent approval to loan up to 50 percent of its aggregate capital to borrowing groups should provide the IDOB with a general explanation of the bank's business plan, including what the bank wants to do, why the bank wants to do it, and what enhanced protections the bank will put in place to protect against increased risk associated with exceeding 25 percent of its aggregate capital in loans to a borrowing group.
- The bank must have a composite CAMELS rating of 1 or 2; and the management and asset components must each be 1 or 2.
- The approval will be subject to the bank maintaining these CAMELS ratings and appropriately managing its loans to borrowing groups. The bank should have a plan to bring affected lending relationships back into conformance with a 25 percent limit in the event the bank's condition changes and it no longer has approval to exceed 25 percent. This plan should be in place when the bank requests Superintendent approval to exceed 25 percent.
- Basket approach: A bank receiving approval to lend up to 50 percent of its aggregate capital to borrowing groups may lend no more than 150 percent of its aggregate capital to borrowing groups benefiting from the additional lending authority. All loans to a borrowing group utilizing the additional lending privilege (not just the amount of the loans exceeding 25 percent) are included in the 150 percent aggregate capital basket.
- The bank's board must review and approve loans in the basket on a quarterly basis.
- If a bank utilizes the additional lending authority, the IDOB will consider how well the bank utilizes the additional authority when rating management and asset quality.
- Approval will expire after three years (unless the Superintendent revokes the approval sooner because the bank's condition or management capability has deteriorated); a bank should request the approval be extended before the three-year period ends.

APPENDIX C

Additional Borrowing Privileges for Real Estate – Frequently Asked Questions (FAQ)

The Iowa Division of Banking (IDOB) is providing interpretive answers to frequently asked questions (FAQ) regarding additional borrowing privileges for real estate as referenced in section 524.904(3)(d) of the Code of Iowa. Iowa Code section 524.904(3)(d) permits banks to extend credit to one borrower in an amount up to twenty-five percent of the bank's aggregate capital if the amount that exceeds fifteen percent of the bank's aggregate capital is fully secured by

Mortgages, deeds of trust, or similar instruments granting a first lien on farmland or on single-family or two-family residences, subject to the provisions of section 524.905, provided the amount loaned shall not exceed fifty percent of the appraised value of such real property.

Iowa Code section 524.903(3)(d). The questions and answers below are common questions received from examiners and bankers regarding the additional borrowing privilege provided by this section. However, this FAQ will not cover all possible questions or situations that may arise. If the FAQ does not specifically address a situation or if further clarification is needed regarding the interpretive answer, please contact your bank's analyst at the Iowa Division of Banking.

What is the IDOB's position for additional borrowing privileges in regard to obligations secured by farmland or single-family or two-family residential real estate?

A note citing a first mortgage (documented with a title opinion) on farmland or single-family or two-family residential real estate that has a loan to value ratio of 50 percent or less qualifies for additional borrowing privileges provided certain conditions are met. When determining if an obligation qualifies for additional borrowing privileges under this section of the code, the outstanding balance(s) plus any unfunded commitments of every note that is secured by the first mortgage are added together and that amount is compared to the appraised value. If the balance of the outstanding debt and unfunded commitments of the notes citing the first mortgage add up to an amount exceeding 50 percent of the appraised value, no additional borrowing privilege is allowed for that real estate-secured debt. As a result, citing the first mortgage on multiple notes could have the effect of eliminating the initial note (which may have been the initial land purchase note) from qualifying for the additional borrowing privilege. This would be the case even if the initial note by itself is well below the 50 percent loan-to-value limit. It is important for banks that use this provision of the Code of Iowa to carefully consider what notes cite the first mortgage in order to not lose the additional borrowing privilege they had planned on using. Banks are allowed to use junior liens to capture the equity in the property to use as collateral on other notes without jeopardizing the additional borrowing privilege of their first mortgage position on the eligible collateral. The use of junior liens will ensure there is no confusion between the notes that qualify for additional borrowing privileges and the notes secured by the remaining equity.

What if the bank has a title opinion showing they have the first, second, and third mortgages on a property that appraises for enough that all the notes citing these mortgages would be less than 50 percent loan to value—does all the debt qualify for additional borrowing privileges?

No. Iowa Code section 524.904(3)(d) states the mortgage must be a "first lien" on the real estate. As a result, the IDOB position remains that the Code of Iowa states it must be a first mortgage. Only the debt secured by the first mortgage qualifies for the additional borrowing privilege.

Are livestock improvements (hog houses, cattle feedlots, etc.), grain handling facilities, and machine sheds considered farmland; and do the banks get to count the value of such improvements when considering loan to value?

Yes, as long the real property is zoned agricultural and not commercial, the IDOB will allow the 50 percent loan-to-value limit to be based off the value of the land plus improvements. Examples of farmland improvements could be farrowing buildings, bin sites, cattle feedlots, feed mills, and hog barns, as long as all of the property is zoned agricultural. Grain handling facilities located in towns are likely to be zoned commercial and thus would not qualify for the additional borrowing privileges.

What if a mortgage or deed of trust has a clause that says this lien covers this and all future advances made by the bank to this customer or a cross-collateralization clause? Does that mean the IDOB would include all funds advanced to this customer in order to determine loan-to-value?

No, the IDOB will only consider notes which cite a specifically identified mortgage or mortgages which cite a specifically identified note as needing to be combined and compared to the 50 percent loan-to-value limitation.

Does the bank need a certified appraisal to verify the loan-to-value of the property?

No, but banks do need to comply with federal appraisal regulations. If federal appraisal regulations would require a certified appraisal, then the bank needs to obtain a certified appraisal to qualify. If federal appraisal regulations would only require an evaluation, then an evaluation is sufficient for the additional borrowing privilege.

How are cases handled where the first mortgage is limited to a certain amount and the note that cites that mortgage is greater than the amount of coverage offered by the mortgage, but the value of the property is two times or more greater than the note amount? For example, the mortgage in the first position is for \$300,000, the note is for \$500,000, and the farmland is worth \$2 million—how much qualifies for additional borrowing privileges?

Only the amount secured by the first mortgage would qualify for the 50 percent loan-to-value additional borrowing privilege, which in the example above is \$300,000.

What happens if the price of farmland drops and the loan amount secured by a first lien now exceeds 50 percent of the appraised value—is there a violation?

No, not as long as the loan qualified for the additional borrowing privilege when made. If at any time new money is advanced, the balance of the loan will have to be at 50 percent or less of current appraised value in order to continue to get the additional borrowing privilege.

Continuation of above question—what if no new money is advanced at the time of renewal, extension, or modification—is there a violation?

No, as long as the renewal or modification complies with Iowa Code section 524.904(7)(m), which states “[a] renewal or a restructuring of a loan as a new loan or extension of credit following the exercise by a state bank of reasonable efforts, consistent with safe and sound banking practices, to bring the loan into conformance with the lending limit” is not a lending limit violation unless new funds are advanced or a new borrower replaces the original borrower. For example, if the original agricultural real estate loan was for \$500,000 and is secured by agricultural real estate worth \$1 million, the loan qualified for additional borrowing privileges when it was

made. Five years later, after \$100,000 of principal reduction to \$400,000, the loan balloons and the appraised value of the land has dropped to \$700,000. When the bank extends this loan with the same borrower, it will still qualify for additional borrowing privileges as long as the bank made a reasonable attempt to bring it into compliance and no new money was advanced, due to the fact it is a simple extension of a balloon note that was conforming when made. In short, the law requires the bank to make a reasonable attempt to bring the loan into compliance; but if the bank is not successful, it would be allowed to continue to count toward the additional borrowing privilege.

What if a real estate loan has a balance greater than 50 percent of appraised value, but is partially participated and less than 50 percent of the appraised value is left on the bank's books—does this qualify for additional borrowing privileges?

No. The total amount of debt secured by the first mortgage is used, participated or not, to determine if the loan-to-value is 50 percent or less and qualifies for additional borrowing privileges.