

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 123

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

BILLY J. McKIBBEN

AN ACT

RELATING TO BANKING; AMENDING SECTION 58-1-21 NMSA 1978 (BEING LAWS 1963, CHAPTER 305, SECTION 21, AS AMENDED) TO AUTHORIZE STATE BANKS TO MAKE NONCONFORMING LOANS USING A MORTGAGE INSTRUMENT THAT PERMITS UNSCHEDULED PAYMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 58-1-21 NMSA 1978 (being Laws 1963, Chapter 305, Section 21, as amended) is amended to read:

"58-1-21. LOANS. --

A. A state bank may lend on the security of the personal obligation of the borrower.

B. A state bank may lend on the security of personal property but shall not make any loan on the security of its own stock, of stock of another bank where the borrower owns, controls or holds with the power to vote ten percent or

Underscored material = new
[bracketed material] = delete

1 more of the outstanding voting securities of both that bank
2 and the lending bank or of its obligation subordinate to
3 deposits.

4 C. ~~Any~~ A state bank may make real estate loans
5 secured by liens upon unimproved real estate, upon improved
6 real estate, including improved farmland and improved business
7 and residential properties, and upon real estate to be
8 improved by a building to be constructed or in the process of
9 construction in an amount that when added to the amount unpaid
10 upon prior mortgages, liens and encumbrances, if any, upon the
11 real estate does not exceed the respective proportions of
12 appraised value as provided in this section. A loan secured
13 by real estate within the meaning of this section shall be in
14 the form of an obligation secured by a mortgage, trust deed or
15 other instrument, which shall constitute a lien on real estate
16 in fee or under such rules and regulations as may be
17 prescribed by the director, and any state bank may purchase or
18 sell any obligations so secured in whole or in part. The
19 amount of any such loan made shall not exceed sixty-six and
20 two-thirds percent of the appraised value if the real estate
21 is unimproved; eighty percent of the appraised value if the
22 real estate is improved by off-site improvements such as
23 streets, water, sewers or other utilities; seventy-five
24 percent of the appraised value if the real estate is in the
25 process of being improved by a building to be constructed or

. 119688. 2

Underscored material = new
[bracketed material] = delete

1 in the process of construction; or ninety percent of the
2 appraised value if the real estate is improved by a building.
3 If any such loan exceeds sixty-six and two-thirds percent of
4 the appraised value of the real estate or if the real estate
5 is improved with a one- to four-family dwelling, installment
6 payments shall be required that are sufficient to amortize the
7 entire principal of the loan within a period of not more than
8 thirty years. However:

9 (1) the limitations and restrictions set
10 forth in this subsection shall not prevent the renewal or
11 extension of loans [~~heretofore made~~] and shall not apply to
12 real estate loans that are guaranteed or insured by the United
13 States or an agency thereof or by a state or agency or
14 instrumentality thereof; and

15 (2) loans that are guaranteed or insured as
16 described in Paragraph (1) of this subsection shall not be
17 taken into account in determining the amount of real estate
18 loans that a state bank may make in relation to its capital
19 and surplus or its time and savings deposits or in determining
20 the amount of real estate loans secured by other than first
21 liens [~~and~~]. Where the collateral for any loan consists
22 partly of real estate [~~security~~] and partly of other security,
23 only the amount by which the loan exceeds the value as
24 collateral of such other security shall be considered a loan
25 upon the security of real estate [~~and~~]. In no event shall a

. 119688. 2

Underscored material = new
[bracketed material] = delete

1 loan be considered as a real estate loan where there is a
2 valid and binding agreement that is entered into by a
3 financially responsible lender or other party [~~either~~
4 directly with the bank that is either for the benefit of or
5 has been assigned to the bank and pursuant to which agreement
6 the lender or other party is required to advance to the bank
7 within sixty months from the date of the making of the loan
8 the full amount of the loan to be made by the bank upon the
9 security of real estate. The amount unpaid upon any real
10 estate loan secured by other than a first lien, when added to
11 the amount unpaid upon prior mortgages, liens and
12 encumbrances, shall not exceed in an aggregate sum twenty
13 percent of the amount of the capital stock of the bank paid in
14 and unimpaired plus twenty percent of the amount of its
15 unimpaired surplus fund.

16 D. [Any] A state bank may make real estate loans
17 secured by liens upon forest tracts that are properly managed
18 in all respects. The loans shall be in the form of an
19 obligation [~~or obligations~~] secured by mortgage, trust deed or
20 other such instrument, and [any] a state bank may purchase or
21 sell any obligations so secured in whole or in part. The
22 amount of any such loan, when added to the amount unpaid upon
23 prior mortgages, liens and encumbrances, if any, shall not
24 exceed sixty-six and two-thirds percent of the appraised fair
25 market value of the growing timber, lands and improvements

. 119688. 2

Underscored material = new
[bracketed material] = delete

1 thereon offered as security [~~and~~]. The loan shall be made
2 upon such terms and conditions as to assure that at no time
3 shall the loan balance, when added to the amount unpaid upon
4 prior mortgages, liens and encumbrances, if any, exceed sixty-
5 six and two-thirds percent of the original appraised total
6 value of the property then remaining. No such loan shall be
7 made for a longer term than three years, except that a loan
8 may be made for a term not longer than fifteen years if the
9 loan is secured by an amortized mortgage, deed of trust or
10 other such instrument under the terms of which the installment
11 payments are sufficient to amortize the principal of the loan
12 within a period of not more than fifteen years and at a rate
13 of at least six and two-thirds percent per year. All such
14 loans secured by liens upon forest tracts shall be included in
15 the permissible aggregate of all real estate loans and, when
16 secured by other than first liens, in the permissible
17 aggregate of all real estate loans secured by other than first
18 liens prescribed in Paragraph (2) of Subsection C of this
19 section, but no state bank shall make forest tract loans in an
20 aggregate sum in excess of fifty percent of its capital stock
21 paid in and unimpaired plus fifty percent of its unimpaired
22 surplus fund.

23 E. Loans made to finance the construction of a
24 building and having maturities of not to exceed sixty months
25 where there is a valid and binding agreement entered into by a

Underscored material = new
[bracketed material] = delete

1 financially responsible lender or other party to advance the
2 full amount of the bank's loan upon completion of the building
3 and loans made to finance the construction of residential or
4 farm buildings and having maturities of not to exceed forty-
5 two months may be considered as real estate loans if the loans
6 qualify under this section, or such loans may be classed as
7 commercial loans whether or not secured by a mortgage or
8 similar lien on the real estate upon which the building is
9 being constructed, at the option of each state bank that may
10 have an interest in the loan [~~provided that~~]. No state bank
11 shall invest in or be liable on any such loans classed as
12 commercial loans under this subsection in an aggregate amount
13 in excess of one hundred percent of its actually paid-in and
14 unimpaired capital plus one hundred percent of its unimpaired
15 surplus fund.

16 F. Notes representing loans made [~~under~~] pursuant
17 to provisions of this section to finance the construction of
18 residential or farm buildings and having maturities of not to
19 exceed nine months shall be eligible for discount as
20 commercial paper if accompanied by a valid and binding
21 agreement to advance the full amount of the loan upon the
22 completion of the building, entered into by an individual,
23 partnership, association or corporation acceptable to the
24 discounting bank.

25 G. Loans made to any borrower where the bank looks

Underscored material = new
[bracketed material] = delete

1 for repayment by relying primarily on the borrower's general
2 credit standing and forecast of income, with or without other
3 security, or loans secured by an assignment of rents under a
4 lease and where the bank wishes to take a mortgage, deed of
5 trust or other instrument upon real estate, whether or not
6 constituting a first lien, as a precaution against
7 contingencies and loans in which the small business
8 administration cooperates through agreements to participate in
9 an immediate or deferred or guaranteed basis under the Small
10 Business Act shall not be considered as real estate loans
11 within the meaning of this section but shall be classed as
12 commercial loans.

13 H. A state bank may make loans upon the security
14 of real estate that do not comply with the limitations and
15 restrictions in this section if the total unpaid amount
16 loaned, exclusive of loans that subsequently comply with those
17 limitations and restrictions, does not exceed five percent of
18 the amount that a state bank may invest in real estate loans.
19 The total unpaid amount so loaned shall be included in the
20 aggregate sum that the bank may invest in real estate loans.

21 I. A loan made by a state bank as a noncomplying
22 loan pursuant to Subsection H of this section may be evidenced
23 by a debt instrument and a security instrument consisting of a
24 mortgage, deed of trust, or similar instrument that contain
25 the following provisions:

. 119688. 2

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 4, 1998

7
8 Mr. President:

9
10 Your COMMITTEES' COMMITTEE, to whom has been referred

11
12 SENATE BILL 123

13
14 has had it under consideration and finds same to be GERMANE,
15 pursuant to Senate Executive Message No. 46, and thence referred to
16 the CORPORATIONS & TRANSPORTATION COMMITTEE.
17

18
19 Respectfully submitted,

20
21
22
23
24 _____
25 Manny M. Aragon, Chairman

Underscored material = new
~~[bracketed material] = delete~~

Adopted _____ Not Adopted _____

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

(Chief Clerk)

(Chief Clerk)

Date _____

S0123CC1

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5 February 9, 1998

6
7 Mr. President:

8
9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
10 has been referred

11
12 SENATE BILL 123

13
14 has had it under consideration and reports same with recommendation
15 that it DO PASS, and thence referred to the JUDICIARY
16 COMMITTEE.

17
18 Respectfully submitted,

19
20
21
22
23 _____
24 Roman M. Maes, III, Chairman
25

. 119688. 2

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

Adopted _____ Not Adopted _____

1 (Chief Clerk)

(Chief Clerk)

2

3

4 Date _____

5

6

7 The roll call vote was 8 For 0 Against

8 Yes: 8

9 No: 0

10 Excused: Fidel, Robinson

11 Absent: None

12

13

14 S0123CT1

15

16

17

18

19

20

21

22

23

24

25

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3
4
5
6 February 13, 1998

7
8 Mr. President:

9
10 Your JUDICIARY COMMITTEE, to whom has been referred

11
12 SENATE BILL 123

13
14 has had it under consideration and reports same with recommendation
15 that it DO PASS.

16
17
18 Respectfully submitted,

19
20
21
22 _____
23 Fernando R. Macias, Chairman
24
25

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Date _____

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Tsosie, Vernon, McSorley

Absent: None

S0123JU1

Underscored material = new
[bracketed material] = delete

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
4
5

6 February 17, 1998
7

8 Mr. Speaker:
9

10 Your CONSUMER AND PUBLIC AFFAIRS COMMITTEE, to whom
11 has been referred
12

13 SENATE BILL 123
14

15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
18

19
20
21 _____
22 Gary K. King, Chairman
23
24
25

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998

3 HCPAC/SB 123

Page 16

4 Adopted _____ Not Adopted _____
5 (Chief Clerk) (Chief Clerk)

6
7 Date _____

8
9 The roll call vote was 7 For 0 Against

10 Yes: 7

11 Excused: Crook, Pederson, Sandel

12 Absent: None

13
14 G:\BILLTEXT\BILLW_98\S0123
15
16
17
18
19
20
21
22
23
24
25

. 119688. 2

Underscored material = new
[bracketed material] = delete