

IOWA STATUTES

(source: www.legis.state.ia.us)

524.103 Definitions.

As used in this chapter, unless the context otherwise requires, the term:

1. "Account" means any account with a state bank and includes a demand, time or savings deposit account or any account for the payment of money to a state bank.
2. "Administrator" means the person designated in section 537.6103 .
3. "Aggregate capital" means the sum of capital, surplus, undivided profits, and reserves as of the most recent calculation date.
4. "Agreement for the payment of money" means a monetary obligation, other than an obligation in the form of an evidence of indebtedness or an investment security; including, but not limited to, amounts payable on open book accounts receivable and executory contracts and rentals payable under leases of personal property.
5. "Agricultural credit corporation" means as defined in section 535.12 , subsection 4.
6. "Articles of incorporation" means the original or restated articles of incorporation and all amendments thereto and includes articles of merger. "Articles of incorporation" also means the original or restated articles of organization and all amendments including articles of merger if a state bank is organized as a limited liability company under this chapter.
7. "Assets" means all the property and rights of every kind of a state bank.
8. "Bank" means a corporation or limited liability company organized under this chapter or 12 U.S.C. § 21.
9. "Bankers' bank" means a bank which is organized under the laws of any state or under federal law, and whose shares are owned exclusively by other banks or by a bank holding company whose shares are owned exclusively by other banks, except for directors' qualifying shares when required by law, and which engages exclusively in providing services for depository institutions and officers, directors and employees of those depository institutions.
10. "Board of directors" means the board of directors of a state bank as provided in section 524.601 . For a state bank organized as a limited liability company under this chapter, "board of directors" means a board of directors or board of managers as designated by the limited liability company in its articles of organization or operating agreement.
11. "Borrower" means a person named as a borrower or debtor in a loan or extension of credit, or any other person, including a drawer, endorser, or guarantor, deemed to be a borrower under section 524.904 , subsection 3.
12. "Business of banking" means the business generally done by banks.
13. "Calculation date" means the most recent of the following:
 - a. The date the bank's statement of condition is required to be filed pursuant to section 524.220 , subsection 2.
 - b. The date an event occurs that reduces or increases the bank's aggregate capital by ten percent or more.
 - c. As the superintendent may direct.
14. "Capital" means the sum of the par value of the preferred and common shares of a state bank issued and outstanding.
15. "Capital structure" means the capital, surplus, and undivided profits of a state bank and shall include an amount equal to the sum of any capital notes and debentures issued and outstanding pursuant to section 524.404 .

16. "Chief executive officer" means the person designated by the board of directors to be responsible for the implementation of and adherence to board policies and resolutions by all officers and employees of the bank.

17. "Contractual commitment to advance funds" means a bank's obligation to do either of the following:

a. Advance funds under a standby letter of credit or other similar arrangement.

b. Make payment, directly or indirectly, to a third person contingent upon default by a customer of the bank in performing an obligation and to make such payment in keeping with the agreed upon terms of the customer's contract with a third person, or to make payments upon some other stated condition.

The term does not include commercial letters of credit and similar instruments where the issuing bank expects the beneficiary to draw on the issuer, that do not guarantee payment, and that do not provide for payment in the event of a default by a third person.

18. "Control" means when a person, directly or indirectly or acting through or together with one or more persons, satisfies any of the following:

a. Owns, controls, or has the power to vote fifty percent or more of any class of voting securities or membership interests of another person.

b. Controls, in any manner, the election of a majority of the directors, managers, trustees, or other persons exercising similar functions of another person.

c. Has the power to exercise a controlling influence over the management or policies of another person.

19. "Customer" means a person with an account or other contractual arrangement with a state bank.

20. "Director" means a member of the board of directors and includes a manager of a state bank organized as a limited liability company under this chapter.

21. "Evidence of indebtedness" means a note, draft or similar negotiable or nonnegotiable instrument.

22. "Executive officer" means a person who participates or has authority to participate, other than in the capacity of a director or manager, in major policymaking functions of a state bank, whether or not the officer has an official title, whether or not such a title designates the officer as an assistant, or whether or not the officer is serving without salary or other compensation. The chief executive officer, chairperson of the board, the president, every vice president, and the cashier of a state bank are deemed to be executive officers, unless such an officer is excluded, by resolution of the board of directors of a state bank or by the bylaws of the state bank, from participation, other than in the capacity of a director, in major policymaking functions of the state bank, and the officer does not actually participate in the major policymaking functions. All officers who serve on a board of directors are deemed to be executive officers, except as provided for in section 524.701 , subsection 3.

23. "Fiduciary" means an executor, administrator, guardian, conservator, receiver, trustee or one acting in a similar capacity.

24. "Insolvent" means the inability of a state bank to pay its debts and obligations as they become due in the ordinary course of its business. A state bank is also considered to be insolvent if the ratio of its capital, surplus, and undivided profits to assets is at or close to zero or if its assets are of such poor quality that its continued existence is uncertain.

25. "Insured bank" means a state bank the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act.

26. "Manager" means a person designated by the members to manage a state bank organized as a limited liability company under this chapter as provided in the articles of organization or an operating agreement and may include a member of the board of directors.

27. "Member" means a person with a membership interest in a state bank organized as a limited liability company under this chapter.

28. "Membership interest" means a member's share of the profits and losses, the right to receive distributions of assets, and any right to vote or participate in management of a state bank organized as a limited liability company under this chapter.
29. "Municipal corporation" means an incorporated city.
30. "Officer" means chief executive officer, executive officer, or any other administrative official of a bank elected by the bank's board of directors to carry out any of the bank's operating rules and policies.
31. "Operations subsidiary" means a wholly owned corporation incorporated and controlled by a bank that performs functions which the bank is authorized to perform.
32. "Person" means as defined in section 4.1 .
33. "Reserves" means the amount of the allowance for loan and lease losses of a state bank.
34. "Sale of federal funds" means any transaction between depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at federal reserve banks, or from credits to new or existing deposit balances due from a correspondent depository institution.
35. "Shareholder" means one who is a holder of record of shares in a state bank. If a state bank is organized as a limited liability company under this chapter, "shareholder" means any member of the limited liability company.
36. "Shares" means the units into which the proprietary interests in a state bank are divided, including any membership interests of a state bank organized as a limited liability company under this chapter.
37. "Standby letter of credit" means a letter of credit, or similar arrangement, that represents an obligation to the beneficiary on the part of the issuer to do any of the following:
- a. Repay money borrowed by or advanced to or for the account of the account holder.
 - b. Make payment on account of any indebtedness undertaken by the account holder.
 - c. Make payment on account of any default by the account holder in the performance of an obligation.
38. "State bank" means any bank incorporated pursuant to the provisions of this chapter after January 1, 1970, and any "state bank" or "savings bank" incorporated pursuant to the laws of this state and doing business as such on January 1, 1970, or organized as a limited liability company under this chapter.
39. "Superintendent" means the superintendent of banking of this state.
40. "Supervised financial organization" as defined and used in the Iowa consumer credit code, chapter 537 , includes a person organized pursuant to this chapter.
41. "Surplus" means the aggregate of the amount originally paid in as required by section 524.401 , subsection 3, any amounts transferred to surplus pursuant to section 524.405 and any amounts subsequently designated as such by action of the board of directors of the state bank.
42. "Trust company" means a business organization which is authorized to engage in trust business pursuant to section 524.1005 . A bank lawfully exercising trust powers under the laws of this state or of the United States is not a trust company by reason of having authority to engage in trust business in addition to its general business.
43. "Undivided profits" means the accumulated undistributed net profits of a state bank, including any residue from the fund established pursuant to section 524.401 , subsection 4, after:
- a. Payment or provision for payment of taxes and expenses of operations.
 - b. Transfers to reserves allocated to a particular asset or class of assets.
 - c. Losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated therefor.
 - d. Transfers to surplus and capital.
 - e. Amounts declared as dividends to shareholders.
44. "Unincorporated area" means a village within which a state bank or national bank has its principal place of business.

[C71, 73, 75, 77, 79, 81, §524.103]

85 Acts, ch 252, §32; 89 Acts, ch 257, §2, 3; 90 Acts, ch 1228, §1; 95 Acts, ch 148, §1 - 3; 96 Acts, ch 1056, §1; 2003 Acts, ch 44, §114; 2004 Acts, ch 1141, §47, 48; 2005 Acts, ch 3, §86

524.217 Examinations.

1. The superintendent may do all of the following:

- a. Make or cause to be made an examination of every state bank and trust company whenever in the superintendent's judgment such examination is necessary or advisable, but in no event less frequently than once during each two-year period by either the banking division or the appropriate federal banking agency. During the course of each examination of a state bank or trust company, inquiry shall be made as to its financial condition, the security afforded to those to whom it is obligated, the policies of its management, whether the requirements of law have been complied with in the administration of its affairs, and such other matters as the superintendent may prescribe.
- b. Make or cause to be made such limited examinations at such times and with such frequency as the superintendent deems necessary and advisable to determine the condition of any state bank or trust company and whether any person has violated any of the provisions of this chapter.
- c. Make or cause to be made an examination of any corporation in which the state bank or trust company owns shares.
- d. Upon application to and order of the district court of Polk county, make or cause to be made an examination of any person having business transactions or a relationship with any state bank or trust company when such examination is deemed necessary and advisable in order to determine whether the capital of the state bank or trust company is impaired or whether the safety of its deposits has been imperiled. The fee for any such examination shall be paid by the state bank or trust company.
- e. To the extent necessary for the purpose of any examination provided for by this section and section 524.1105, examine all relevant books, records, accounts, and documents and compel the production of the same in the manner prescribed by section 524.214.

2. The superintendent may furnish to the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, national credit union administration, the federal home loan bank, the financial crimes enforcement network of the federal department of the treasury, the United States internal revenue service, and financial institution regulatory authorities of other states, or to any official or supervising examiner of such regulatory authorities, a copy of the report of any or all examinations made of any state bank and of any affiliate of a state bank.

3. A copy of the report of each examination of a state bank or trust company shall be transmitted by the superintendent to the board of directors of the state bank or trust company except to the extent that the report of any such examination may be confidential to the superintendent, and each member of the board of directors shall furnish to the superintendent, on forms to be supplied by the superintendent, a statement that the member has read the report of examination.

4. All reports of examinations, including any copies of such reports, in the possession of any person other than the superintendent or employee of the banking division, including any state bank or any agency to which any report of such examination may be furnished under subsection 2, shall be confidential communications, shall not be subject to subpoena from such persons, and shall not be published or made public by such persons.

5. The report of examination of any affiliate or of any person examined as provided for in subsection 1, paragraph "c" or "d", shall not be transmitted by the superintendent to any such affiliate or person or to any state bank or trust company or to the board of directors of any state bank or trust company unless authorized or requested by such affiliate or person.

[R60, §1637; C73, §1571; C97, §1873; S13, §1873; C24, 27, 31, 35, §9231, 9283-g4; C39, § 9231, 9283.47; C46, 50, 54, 58, 62, 66, §528.25, 530.4; C71, 73, 75, 77, 79, 81, §524.217]

89 Acts, ch 257, §5; 90 Acts, ch 1228, §2; 92 Acts, ch 1161, §1; 95 Acts, ch 148, §16; 2004 Acts, ch 1141, §15 ; 2006 Acts, ch 1015, §2
Subsection 2 amended

524.606 Removal of directors.

1. At a meeting of shareholders expressly called for that purpose, individual directors or the entire board of directors may be removed, with or without cause, by the affirmative vote of the holders of a majority of the shares entitled to vote at an election of directors. The vacancies created may be filled at the same meeting at which the removal proceedings take place.

2. If, in the opinion of the superintendent, any director of a state bank or bank holding company has violated any law relating to such state bank or bank holding company or has engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent may cause notice to be served upon such director, to appear before the superintendent to show cause why the director should not be removed from office. A copy of such notice shall be sent to each director of the state bank or bank holding company affected, by registered or certified mail. If, after granting the accused director a reasonable opportunity to be heard, the superintendent finds that the director violated any law relating to such state bank or bank holding company or engaged in unsafe or unsound practices in conducting the business of such state bank or bank holding company, the superintendent, in the superintendent's discretion, may order that such director be removed from office, and that such director be prohibited from serving in any capacity in any other bank, bank holding company, bank affiliate, trust company, or an entity licensed under chapter 533A , 533C , 533D , 535B , 536 , or 536A . A copy of the order shall be served upon such director and upon the state bank or bank holding company of which the person is a director at which time the person shall cease to be a director of the state bank or bank holding company. The resignation, termination of employment, or separation of such director, including a separation caused by the closing of the state bank or bank holding company at which the person serves as a director, does not affect the jurisdiction and authority of the superintendent to cause notice to be served and proceed under this subsection against the director, if the notice is served before the end of the six-year period beginning on the date the director ceases to be a director with the bank.

The decision of the superintendent shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A . No action taken by a director prior to the director's removal shall be subject to attack on the ground of the director's disqualification.

[C31, 35, §9224-c2; C39, § 9224.2; C46, 50, 54, 58, 62, 66, §528.18; C71, 73, 75, 77, 79, 81, §524.606]

91 Acts, ch 220, §3; 93 Acts, ch 28, §1; 95 Acts, ch 148, §64; 2003 Acts, ch 44, §114; 2006 Acts, ch 1015, §6

Removal of officers and employees; § 524.707

Subsection 2, unnumbered paragraph 1 amended

524.707 Removal of officers or employees.

1. An officer or employee may be removed by the board of directors whenever in its judgment the best interests of the state bank shall be served by such removal, but the removal shall be without prejudice to the contract rights, if any, of the officer or employee so removed. Election of an officer shall not of itself create contract rights.

2. Section 524.606 , subsection 2, which provides for the removal of directors by the superintendent, shall have equal application to officers and employees of a bank, bank holding company, bank affiliate, or trust company.

[C71, 73, 75, 77, 79, 81, §524.707]

91 Acts, ch 220, §4; 95 Acts, ch 148, §75; 2006 Acts, ch 1015, §7
Subsection 2 amended