

1 **FINANCIAL INSTITUTION AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Patrick Painter

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Financial Institutions Act to address credit exposure from
10 derivative transactions.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ includes in total loans and extensions of credit, credit exposure to derivative
14 transaction for purposes of limitations on loans and extensions of credit for banks
15 and industrial banks;

16 ▶ grants rulemaking authority to define terms; and

17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **7-3-19**, as last amended by Laws of Utah 2000, Chapter 260

25 **7-8-20**, as last amended by Laws of Utah 2004, Chapter 92

27 *Be it enacted by the Legislature of the state of Utah:*

28 Section 1. Section **7-3-19** is amended to read:

29 **7-3-19. Limitations on loans and extensions of credit.**

30 (1) The total loans and extensions of credit [~~by any~~], including credit exposure to a
31 derivative transaction, by a bank to [~~any~~] a person outstanding at one time and not fully
32 secured, as determined in a manner consistent with Subsection (2), by collateral having a
33 market value at least equal to the amount of the loan or extension of credit may not exceed
34 15% of the amount of the bank's total capital.

35 (2) (a) The total loans and extensions of credit, including credit exposure to a
36 derivative transaction, by a bank to a person outstanding at one time and fully secured by
37 readily marketable collateral having a market value, as determined by reliable and continuously
38 available price quotations, at least equal to the amount of the funds outstanding may not exceed
39 10% of the total capital of the bank.

40 (b) The limitation of Subsection (2)(a) is separate from and in addition to the limitation
41 described in Subsection (1).

42 (3) (a) The limitations contained in Subsections (1) and (2) are subject to exceptions
43 the commissioner may prescribe by rule made in accordance with Title 63G, Chapter 3, Utah
44 Administrative Rulemaking Act.

45 (b) A rule made under this section may not be inconsistent with law and regulations
46 applicable to loan restrictions on national banks.

47 (4) (a) The commissioner may, by rule made in accordance with Title 63G, Chapter 3,
48 Utah Administrative Rulemaking Act, define the following terms as used in this section:

49 (i) "credit exposure to a derivative transaction";

50 (ii) "derivative";

51 (iii) "loans and extensions of credit"; and

52 (iv) "person" [as used in this section].

53 (b) The definitions described under Subsection (4)(a) may not be inconsistent with
54 those applicable to national banks.

55 Section 2. Section **7-8-20** is amended to read:

56 **7-8-20. Limitations on loans to one borrower -- Exceptions -- Rules.**

57 (1) Except as provided in this section, the total loans and extensions of credit [~~by any~~],

58 including credit exposure to a derivative transaction, by an industrial bank to [~~any~~] a person
59 outstanding at any one time may not exceed 15% of the industrial bank's total capital.

60 (2) Subsection (1) does not apply to an extension of credit that is subject to, or
61 expressly exempted from, a federal statute or federal regulation limiting the amount of total
62 loans and credit that may be extended to any person or group of persons.

63 (3) The commissioner may by rule made in accordance with Title 63G, Chapter 3, Utah
64 Administrative Rulemaking Act:

65 (a) exempt from Subsection (1) [~~any~~] a class of loans or class of extensions of credit,
66 including credit exposure to a derivative transaction, that are adequately secured or are not
67 otherwise a risk to the safe and sound operation of an industrial bank;

68 (b) define terms and phrases necessary to interpret and implement this section;

69 (c) adopt standards for aggregating or segregating loans to the same or different
70 persons;

71 (d) describe records required to be maintained;

72 (e) require specific actions to be taken by an institution's board of directors or
73 executive officers; and

74 (f) prescribe other actions necessary to interpret and implement this section.