

IB59**Lease Financing** [Section 11-102-104, C.R.S.]

A. General Authority

An industrial bank may engage in lease financing transactions provided the lease is a net, full payout lease, representing a non-cancelable obligation of the lessee. A "net lease" is a lease in which the bank is not directly or indirectly obligated to assume the expenses of maintaining the property. A "full payout" lease is a lease for which the bank expects to realize both return of its full investment and the cost of financing the property over the term of the lease. This payout can come from (1) rentals; (2) estimated tax benefits; and (3) the estimated residual value of the property at the expiration of the term of the lease.

B. Limitations

Lease financing transactions entered into pursuant to this Rule are subject to the limitations on loans or extensions of credit pursuant to Banking Board Rule IB64. The Banking Board reserves the right to determine that such leases are also subject to the limitations of any other law, rule, or order.

C. Restrictions on Transactions with Affiliates

Lease financing transactions entered into pursuant to this Rule are subject to the following restrictions on transactions with affiliates:

1. The terms and circumstances of the transaction, including credit standards, must be substantially the same, or at least as favorable to the bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other non affiliated companies;
2. In the case of any affiliate, the aggregate amount of lease transactions of the bank and its subsidiaries does not exceed 10 percent of the total capital of the bank; and
3. In the case of all affiliates, the aggregate amount of lease transactions of the bank and its subsidiaries does not exceed 20 percent of the total capital of the bank.

For the purposes of this Rule, any transaction by an industrial bank with any person shall be deemed to be a transaction with an affiliate to the extent that the proceeds of the transaction are used for the benefit of, or transferred to that affiliate.

D. A bank may purchase or construct a municipal building, such as a school building, or other similar public facility and, as holder of legal title, lease the same to a municipality or other public authority having resources sufficient to make payment of all rentals as they become due. The lease agreement shall provide that upon its expiration the lessee will become owner of the building or facility.

E. Reference

1. Banking Board Rule IB64 is a Rule and regulation enacted by the Colorado State Banking Board and is administered by the Colorado Division of Banking.

2. For more detailed information pertaining to these provisions, please contact the Secretary to the Colorado State Banking Board at 1560 Broadway, Suite 1175, Denver, Colorado 80202, (303) 894-7575.

Amended Effective December 30, 2004

To correct the citations and to make grammatical and technical corrections.

Amended Effective March 1, 2004

Statutory reference amendment to conform Rule to recodified statutes; update terminology to conform to recodified statutes; formatting changes to comply with Colorado Secretary of State guidelines.

Amended Effective July 30, 1998

Technical and grammatical corrections.