

**Opinion No. 19-2368**

September 24, 1919

**BY:** HARRY S. BOWMAN, Assistant Attorney General

**TO:** Hon. J. B. Read, State Bank Examiner, Santa Fe, New Mexico.

Limitations Upon Bank Loans.

**OPINION**

We have your letter of the 17th instant, requesting an opinion from this office regarding the construction to be placed upon section 36, Chap. 67, Laws 1915, known as the "Banking Act."

You refer to section 21, Chap, 120, Laws 1909. We are not certain to what section you are alluding as there is no such section in the statute books, and assume that this reference must contain a typographical error.

In our opinion the first part of section 36 and the last two lines of this section refer to different relations between the bank and its customers. The first part of the section refers to the bank as a creditor, while the last two lines, which prohibit a bank from investing more than 20 per cent of its capital and surplus, refers to the bank as a purchaser of securities. (In your letter you state that the bank shall not invest more than 30 per cent of its capital, while the act limits the investment to 20 per cent).

The first part of section 36 limits the amount which a bank may loan, excepting in the cases specifically mentioned, to any person, firm or corporation to the sum of 20 per cent of its capital and surplus, but no limitation is placed upon the amount that may be loaned to a person upon the "discount of bills of exchange drawn against actually existing values, loans upon produce in transit and upon warehouse and elevator receipts as collateral security, and negotiable paper secured by collateral having an actual market value in excess of the paper secured." The amount that may be loaned by a bank to its customers where the loan is secured as last above indicated seems to be unlimited.

The part of the section which refers to investment, we believe limits the amount of paper or securities that any bank may purchase outright from any person, firm, or corporation, but this investment we do not understand is to be included in the amount that may be loaned.

Therefore, it is our opinion that a bank may loan in an amount equal to 20 per cent of its capital and surplus, and may invest in the securities of the same person, firm or corporation an equal amount and in addition may loan any sum to the same person, firm

or corporation where the loan is secured in any of the values specifically mentioned in this section.

Trusting that the foregoing fully answers your inquiry, I am