



Ohio Revised Code Section 1121.52 Impaired capital.

Effective: January 1, 2018

Legislation: House Bill 49 - 132nd General Assembly

(A) If a state bank is undercapitalized, the superintendent of financial institutions shall notify the bank of the fact of the undercapitalization. The superintendent may require the bank to submit a written capital restoration plan to the superintendent within forty-five days after the bank receives that notice, unless the superintendent authorizes in writing a longer period of time.

(B) A capital restoration plan required under this section shall specify all of the following:

- (1) The steps the state bank will take to become adequately capitalized;
- (2) The levels of capital to be attained during the time frame in which the plan will be in effect;
- (3) The types and levels of activities in which the bank will engage;
- (4) Any other information the superintendent may require.

(C) The superintendent shall approve a capital restoration plan submitted under this section if the superintendent determines that the plan meets both of the following conditions:

- (1) It is based on realistic assumptions and is likely to succeed in restoring the bank's capital.
- (2) It would not appreciably increase the risk, including credit risk and interest rate risk, to which the bank is exposed.

(D) If the superintendent fails to approve a state bank's capital restoration plan, the superintendent shall notify the bank and require it to submit a revised plan within a time period specified by the superintendent. Upon serving that notice, the superintendent may immediately appoint a conservator for the bank or take any other action authorized under section 1121.32, 1121.33, 1121.34, 1121.35, 1121.41, or 1121.46 of the Revised Code or any other law or rule.



(E) Both of the following apply to any state bank that has submitted and is operating under a capital restoration plan approved under this section:

(1) The bank shall not be required to submit an additional capital restoration plan based on a revised calculation of its capital measures unless specifically required to do so by the superintendent. A state bank that is notified that it must submit a new or revised plan shall file a written plan with the superintendent within thirty days after the bank receives the notice, unless the superintendent authorizes in writing a different period of time.

(2) The bank may, after prior written notice to and approval by the superintendent, amend its capital restoration plan to reflect a change in circumstance. Until such time as a proposed amendment is approved by the superintendent, the bank shall implement the plan in its current form.

(F)(1) If an undercapitalized bank fails to submit a capital restoration plan required under this section within the designated period of time, upon expiration of that period, the superintendent may immediately appoint a conservator for the bank or take any other action authorized under section 1121.32, 1121.33, 1121.34, 1121.35, 1121.41, or 1121.46 of the Revised Code or any other law or rule.

(2) If an undercapitalized bank fails, in any material respect, to implement a capital restoration plan required under this section, the superintendent may immediately appoint a conservator for the bank or take any other action authorized under section 1121.32, 1121.33, 1121.34, 1121.35, or 1121.41 of the Revised Code or any other law or rule.

(G) Nothing in this section prohibits the superintendent from requiring a state bank to submit a capital restoration plan at any other time the superintendent considers necessary.