

**INTERPRETIVE LETTER 89-11 (AUGUST 31, 1989)**

**State bank may extend loan secured by stock of its bank holding company without violating prohibition against making a loan secured by bank's own stock.**

You have inquired to the Agency whether a state bank may make a loan secured by stock of the holding company which owns the bank. As you are aware, Section 37 of the Illinois Banking Act (Chapter 17, Ill. Rev. Stat. 1987, par. 347) prohibits a state bank from making a loan:

on the security of the shares of its own capital stock or preferred stock or on the security of its own debentures or evidences of debt which are either convertible into capital stock or are junior or subordinate in right of payment to deposit or other liabilities of the bank.

Reading of that Section makes it clear that the statute only prohibits accepting the bank's own securities as collateral for a loan by the bank.

The policy of Section 37 is based, of course, upon the very real difficulty a loan officer would have in the circumstance where he knew the holding company stock was not as valuable as it should be to fully collateralize a loan. Section 37, at least in the bank context, relieves the loan officer of ever being placed in the position of having to make such a difficult decision. In the circumstances of your client who inquired, this should not be an issue because the holding company stock, as you described, is publicly traded.

You should, of course, keep in mind that under Section 23(A) the Federal Deposit Insurance Corporation would interpret such a loan to be a "covered transaction" and subject to affiliate loan limitations.