CB101.44 **Dividends** [Section 11-103-406, C.R.S.]

A. Purpose

This Rule applies restrictions to the declaration and payment of dividends by a state chartered commercial bank.

B. Definitions

For the purposes of this Rule, the following definitions apply:

1. Capital surplus means the total of surplus as reportable in the bank's Report of Condition and Income and surplus on perpetual preferred stock.
2. Retained net income means the net income of a specified period less the total amount of all dividends declared in that period.

C. Earnings Limitation on Payment of Dividends

Unless the dividend is approved by the Banking Board, a bank shall not declare a dividend if the total amount of all dividends, including the proposed dividend, declared by such state bank in any calendar year exceeds the total of the bank's retained net income of that year to date, combined with its retained net income of the preceding two years. The bank's net income during the current year and its retained net income from the prior two calendar years is reduced by any net losses incurred in the current or prior two years, and any required transfers to surplus or to a fund for the retirement of preferred stock.

D. Date of Declaration of Dividend

The state bank shall use the date a dividend is declared for the purposes of determining compliance with this Rule.

Amended Effective March 30, 2004
Amendments correct minor grammatical and technical errors.
Amended Effective February 2, 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 September 3, 2002
To maintain consistency with the federal regulatory agencies when applying dividend restrictions to state chartered banks.