



# COLORADO

## Department of Regulatory Agencies

Division of Banking

August 15, 2024

**STATE BANKING BOARD  
3 CCR 701-6 TC8  
PERTAINING TO TITLE 11, ARTICLE 109, SECTION 501  
COLORADO REVISED STATUTES**

**STATEMENT OF BASIS, PURPOSE AND SPECIFIC STATUTORY AUTHORITY**

Statutory Basis

The statutory basis for Banking Board Rule 3 CCR 701-6 TC8 is found in Section 11-109-501 of the Colorado Revised Statutes.

Purpose of this Rulemaking

The purpose of this rule is to apply restrictions to the declaration and payment of dividends by a State-Chartered Trust Company.

The purpose of this rulemaking is to amend Rule 3 CCR 701-6 TC8.

The Colorado Division of Banking (Division) finds that the proposed amendments this rule are necessary as follows:

- The current Rule TC8 is silent on capital limitations on the payment of dividends. Including such capital limitations is necessary to help ensure State-Chartered Trust Companies maintain sufficient capital.
- Under Rule TC8(C), Earnings Limitation on Payment of Dividends, the current Rule does not provide clarification regarding the source of dividend payments, nor is there a definition of undivided profits in the Rule. These additions are necessary to provide clarity regarding the source of dividend payments.
- Include the Prompt Corrective Action “undercapitalized” definition through the incorporation by reference the following applicable code of federal regulation:
  - Code of Federal Regulations Title 12 - Banks and Banking Chapter III - Federal Deposit Insurance Corporation Subchapter B - Regulations and Statements of General Policy Part 324 Capital Adequacy of FDIC-Supervised Institutions, which includes Subpart H Prompt Corrective Action. The incorporated material is available at <https://banking.colorado.gov/banking-home/rules-statutes>.

Rulemaking Authority

- 11-101-102. Declaration of policy.
- 11-102-104. Powers and duties of the banking board.
- 11-109-103. Applicability of powers of banking board and bank commissioner to trust companies.
- 11-109-501. Directors' meetings - duties.

