

**Opinion No. 17-1986**

May 5, 1917

**BY:** GEORGE C. TAYLOR, Assistant Attorney General

**TO:** Mr. George H. Van Stone, Bank Examiner, Santa Fe, New Mexico.

Banks May Increase Capital Stock From Surplus Funds.

**OPINION**

In reply to your letter of April 30, in which you ask whether an increase of capital stock may be legally made from the surplus fund of a bank, you are advised that, subject to the provisions of Section 45, Chapter 67, of the Laws of 1915, there is no legal objection to the use of surplus funds for this purpose. So long as the bank maintains a surplus fund equal to 20 per cent of the capital of the bank, they may do what they wish with the remaining surplus, including, if deemed advisable, the use of such excess surplus to increase its capital. An increase in the capital would naturally require a corresponding increase in the surplus fund. It would not be permissible for the bank to reduce the surplus to less than 20 per cent of the capital, whether such capital be its original capital, or its capital as increased by transfers from its surplus fund.