

Banking/Finance

Banking is no longer a business of tradition. Technology and competition are the drivers of lending and investing innovation at the most successful financial institutions. Andrews Kurth's banking practice began at the dawn of the twentieth century, when we helped to organize Texas Commerce Bank (now, through constant industry change, a part of JP Morgan Chase). Since then we have served banks, thrifts, diversified financial service companies, pension funds and insurance firms by focusing on bottom-line, practical advice and good business judgment:

We work with these clients in the following areas:

- Syndicated financing transactions
- Financing of leveraged acquisitions
- Project and structured financing
- Real estate financing and syndications
- Commercial and energy loans
- Institutional placements of debt securities
- Foreclosures and loan workouts
- Disposition of troubled properties
- Swaps and other derivative transaction
- Bank Regulatory Matters

Our lawyers are recognized leaders at making the most complex asset securitization and energy finance transactions happen, coordinating Andrews Kurth's resources to make sure the deal gets done, the lender's collateral is protected and the requirements of regulators are met.

Commercial Lending and Syndicated Finance

Andrews Kurth represents lenders and borrowers in virtually every type of commercial lending transaction. We have vast experience in large and small, secured and unsecured commercial credit facilities ranging from small loans to single borrowers to billion dollar syndicated credit facilities. These include traditional commercial loans, asset based lending agreements, construction and development loans, leveraged and synthetic leases, securitization conduits and more exotic forms of structured finance.

We possess extensive expertise regarding the syndicated loan market and the type of structure and documentation expected in that market. We lend assistance in all phases of a syndicated transaction, establishing a structure, assisting in the preparation of an information memorandum and term sheet, performing due diligence, and negotiating, documenting and closing the transaction. We represent many borrowers in syndicated transactions as well, and our lawyers have gained considerable insight from serving as counsel to both lenders and borrowers.

We have assisted lenders, large and small, in taking virtually every kind of personal and real property as collateral including accounts, inventory and equipment, intellectual property, real estate, producing and non-producing oil and gas properties and credit enhancement vehicles. Our experience includes all types of loan-related documentation including intercreditor agreements, interest rate option and swap agreements, collateral agency agreements, subordination agreements, collateral custodian agreements, purchase and sale agreements, letters of credit and many others.

Our orientation is to finalize a loan transaction in the simplest of structures consistent with our clients' needs, as expeditiously and cost-effectively as possible.

Mortgage banking and securitization—sophisticated and efficient

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We represent mortgage banking and financial institutions in all aspects of the mortgage banking business and thoroughly understand mortgage loan securitization. Our lawyers know the business from the ground up, as we help many loan originators create, buy and sell loan servicing rights, buy and sell loan origination businesses, and originate a wide variety of first lien/single family and commercial/multifamily mortgage loan products. We advise clients on transactions involving individual mortgage loans (including whole loan sale, participation and pass-through transactions), as well as a wide range of mortgage loan securitization and conduit programs.

We securitize residential and commercial loan pools that reflect the latest rating agency criteria, servicing developments and investor demands, and meet all rules and standards of the Federal Home Loan Mortgage Corporation (FHLMC), Fannie Mae (FNMA) and Ginnie Mae (GNMA).

Since 1995, Andrews Kurth has prepared over 1,300 mortgage loan packages secured by residential, multifamily, retail, industrial, hotel, office and mixed-use properties in 43 states. Valued in the tens of millions to the billions of dollars, these have included loan servicing rights for over \$40 billion of single family mortgage loans securitized by FNMA and FHLMC, and jumbo non-conforming loans securitized by private institutions. Our lawyers review mortgage loan documentation within the pool of loans to be securitized, prepare disclosure documentation and issue the opinions required by rating agencies and transaction participants.

A special Andrews Kurth securitization niche is warehouse and term loan credit facilities in which groups of commercial banks or Wall Street investment bankers serve as lenders on the mortgage loans and loan servicing rights. We understand the issues that make these transactions different from other types of securitizations, such as “wet” funding advances that protect the lender during review of the loan documentation. We have also done multinational warehouse loans—for example, advising Firstplus Financial Inc. and its United Kingdom affiliate as borrower under a warehouse line of credit facility with Deutsche Bank AG London, as lender, for the financing of home loans originated through the U.K. affiliate.

Energy finance—comprehensive and global

We help domestic and international energy clients—small independents to integrated majors and pipeline companies to utilities—finance every aspect of their exploration, production, processing, refining, infrastructure, transportation, trading and marketing. We work with lenders to help energy companies negotiate the most effective capital structures:

- Secured and unsecured debt financing and mixed debt/equity financing vehicles
- Leveraged leasing and sale/leaseback transactions
- Production payment financings and power purchase agreements
- Project financing.

Real estate finance—seamless and experienced

Andrews Kurth's banking, corporate, real estate and tax lawyers work together providing seamless counsel to a full range of financial institutions on complex real estate transactions. We work across the country with national and regional:

- Commercial mortgage brokers
- Mortgage loan servicers
- Life insurers
- Pension funds
- Construction and Development Lenders
- Real estate investment trusts (REITs)
- Conduit lenders
- Securitized mortgage originators

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- Publicly traded limited partnerships
- Real Estate Developers

We help lenders and borrowers make synthetic lease or other real estate loans with accounting and tax advantages in mind. Typical real estate projects include leased retail and office space (particularly in complexes of over one million square feet), hotels and gaming properties, arena/civic center projects, industrial facilities and others.

Lender liability—flexible and tough

We often represent lenders as secured creditors in loan workouts and restructurings, bankruptcies, liquidations and foreclosures. When our lawyers are involved in transactions from the start, we can build maximum creditor protection into the loan documentation. If reorganization or liquidation of a debtor becomes necessary, we pursue the action best suited to recover our client's investment. We take a flexible approach to collateral recovery, advising banks on distressed asset sales or on becoming lenders to, or securing assets from, the debtor-in-possession. But if foreclosure or bankruptcy litigation is necessary, we do everything possible to secure maximum collateral recovery.

Regulatory compliance—practical and effective

Andrews Kurth understands the complex banking regulatory system. Our lawyers advise clients on the requirements for the acquisition, brokering, origination and/or servicing of commercial and mortgage loans in all 50 states. We work often and effectively with regulators in the Federal Reserve Board (FRB), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), the Comptroller of the Currency (OCC) and banking agencies in Texas and other states to:

- Secure approval for mergers and acquisitions, including hostile takeovers
- Help new financial institutions obtain charters and deposit insurance
- Form bank holding companies
- Address bank examiner concerns about lending programs, asset quality and other concerns
- Communicate on restructuring, bank purchases and sales, and similar changes

Andrews Kurth—skilled and creative

Banks face complex and sometimes conflicting demands. They are businesses that must innovate amid global competition and increased regulation—fiduciaries that must safeguard the financial security of millions—economic gatekeepers that must translate regulatory and economic policies into everyday business transactions. Bankers don't just need a lawyer; they need skilled business advisors with creative insight on how best to meet their responsibilities.

Andrews Kurth combines a century of banking counsel with hands-on experience in the latest financial services industry innovations. Because we speak the language of banking and finance and are a leading player in the industry, we will give you the straight talk and real answers you deserve.