

Clearinghouse Rule 97-049

STATE OF WISCONSIN)
) SS
OFFICE OF CREDIT UNIONS)

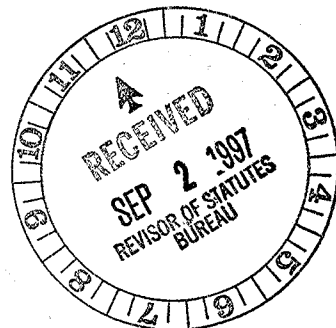
I, Ginger Larson, Director of Credit Unions and custodian of the official records, certify that the annexed rules, relating to real estate mortgage loans in credit unions, were duly approved and adopted by this office.

I further certify that this copy has been compared by me with the original on file in this office and that it is a true copy of the original, and of the whole original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of Credit Unions at 101 E. Wilson St. in the city of Madison, this 2nd day of September, 1997.



Ginger Larson
Ginger Larson
Director of Credit Unions



11-1-97

97-49

**ORDER OF THE
DEPARTMENT OF FINANCIAL INSTITUTIONS - OFFICE OF CREDIT UNIONS**

An order to amend, repeal, create, and renumber Chapter CU 54 (DFI-CU 54) relating to real estate mortgage loans in credit unions.

Analysis Prepared by the Office of Credit Unions:

Statutory authority: ss. 186.235 (2) & (8), Stats.

Statutes interpreted: s. 186.098 (10), Stats.

Chapter DFI-CU 54 establishes policy and documentation requirements for real estate lending. It exempts loans of \$25,000 or less, or loans less than 20% of the regular reserve, whichever amount is smaller, from the requirements of this chapter. It limits the aggregate of real estate secured loans to 50% of the total assets of the credit union. The rule also prevents credit unions from granting real estate equity loans in excess of 80% loan-to-value.

The proposed changes to the rule will provide guidance for real estate lending, but will allow credit unions to adopt written policies to direct the real estate lending activities that will be more specific to their individual operations. The loan policies of the individual credit unions will contain limitations directly applicable to the credit union.

**Chapter DFI-CU 54
REAL ESTATE MORTGAGE LOANS IN CREDIT UNIONS**

DFI-CU 54.01 Purpose and scope	DFI-CU 54.04 Loan policies
DFI-CU 54.02 Definitions	DFI-CU 54.05 Required documentation
DFI-CU 54.03 Limitations on real estate mortgage loans	DFI-CU 54.06 Appraisal
	DFI-CU 54.07 Discretionary authority retained by commissioner

Note: Chapter CU 54 as it existed on June 30, 1990 was repealed and a new chapter CU 54 was created effective July 1, 1990.

DFI-CU 54.01 PURPOSE AND SCOPE. It is the purpose of this chapter to permit Wisconsin credit unions to make loans to their members secured by real estate in accordance with applicable state or federal rules, regulations, and statutes. ~~This chapter establishes the minimum requirements. The circumstances of individual loans may demand adherence to more stringent standards than these minimum requirements prescribe. Compliance with the requirements of this chapter is not to be considered a substitute for safe and sound business judgment. The commissioner may require corrective actions be taken if it is determined lending practices are imprudent, even though individual loans may comply with the minimum requirements. Loans of \$25,000 or less, or loans less than 20% of the regular reserve, whichever amount is smaller, are exempt from the requirements of this chapter. This chapter is intended to assist institutions in the formation and maintenance of a real estate lending policy that is appropriate to the size of the institution and the nature and scope of its individual operations. Loans for which a lien on real estate is taken through an abundance of caution where the terms of the loan as a consequence have not been made more favorable than they would have been in the absence of the lien are exempt from the requirements of this chapter. The director may limit, restrict or prohibit a credit union from making any type, category, or classification of loan governed by this chapter if examination results indicate the credit union is conducting its business in an unauthorized or unsafe manner or is violating the provisions of this chapter.~~

DFI-CU 54.02 DEFINITIONS. In this chapter:

(1) "Borrower's equity" means ~~the net~~ market value of the subject real estate ~~determined by multiplying the market value by 80%,~~ minus outstanding indebtedness.

(2) ~~"Commissioner"~~ "Director" means ~~the commissioner~~ director of credit unions or an authorized representative of the ~~commissioner~~ director.

(3) "Equity loan" means any loan secured in whole or in part by a first or subordinate lien on real estate and whose purpose is anything other than to purchase the secured real estate.

(4) "Indebtedness" means the balances of all outstanding closed-end loans, maximum approved lines of credit of all open-end loans, unpaid taxes due and any other unsatisfied liens or encumbrances applicable to the subject real estate.

~~(5) "Market value" means the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and not acting under duress. which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:~~

- ~~_____ (a) Buyer and seller are typically motivated;~~
- ~~_____ (b) Both parties are well informed or well advised, and acting in what they consider their own best interests;~~
- ~~_____ (c) A reasonable time is allowed for exposure in the open market;~~
- ~~_____ (d) Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and~~
- ~~_____ (e) The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.~~

(6) "Purchase money loan" means any loan secured in whole or in part by a first or subordinate lien on real estate and whose sole purpose, as stated in the written loan application, is to purchase or acquire the subject property.

~~_____ (7) "Real estate" means land on which residential, farm, or commercial buildings of a permanent nature are erected, or land which is served by public access roads or public utilities. Builder's lots on which construction of residential or commercial property is intended are considered real estate.~~

DFI-CU 54.03 LIMITATIONS ON REAL ESTATE MORTGAGE LOANS A credit union may grant purchase money and equity mortgage loans to members secured with real estate, subject to the following limitations:

- ~~_____ (1) The aggregate of real estate secured loans, subject to this chapter, may not exceed 50% of total assets.~~

~~(2)~~(1) Purchase money loans, excluding amounts financed for accident, health and credit life insurance premiums, may not exceed ~~80%~~90% of the market value ~~or purchase price~~ of the subject real estate, ~~whichever is less~~, except if:

(a) The part of the loan that exceeds the ~~80%~~90% limitation is insured or guaranteed by a qualified private mortgage insurer;

(b) The loan or the part of the loan that exceeds the ~~80%~~90% limitation is insured or guaranteed by an agency or instrumentality of a local, state or federal government;

(c) The loan is to facilitate the sale of real estate owned by the credit union or real estate in foreclosure; or:

(d) The loan, excluding accident, health and credit life insurance premiums, does not exceed \$30,000.

~~(3)~~(2) Equity loans, excluding amounts financed for accident, health and credit life insurance premiums, may not exceed the borrower's equity in the subject real estate, except to the extent the excess is secured by other ~~property, collateral~~, the value of which can be supported by authoritative evidence.

~~(4)~~(3) The term of a mortgage loan may not exceed 30 years commencing the latter of:

(a) The date of closing;

(b) The date of the first contractual ~~monthly payment~~ principal and interest payment;

(c) The date of any additional advance;

(d) The date of any properly executed loan modification agreement; or

(e) The date of any interest rate increase under the terms of a note permitting or requiring changes in the interest rate.

DFI-CU 54.04 LOAN POLICIES. The board of directors shall adopt written policies to direct the real estate lending activities. The loan policies shall be reviewed at least annually. The policies shall address, at a minimum, the following:

(1) Types of real estate mortgage loans that will be offered.

(2) Percentage of assets to be invested in real estate loans by category, ~~type and in total~~.

(3) The trade area for real estate mortgage loans.

~~(4) Interest rates and maturities~~ Maturities of real estate mortgage loans.

(5) ~~Standards~~ Appropriate limits and standards of creditworthiness applicable to real estate loan approvals.

(6) Monitoring and quality control standards.

~~(7) Appraisal and valuation standards.~~

~~(8) Loan to value limitations on equity loans.~~

~~(9) Asset liability/funds management issues.~~

DFI-CU 54.05 REQUIRED DOCUMENTATION. Each real estate loan shall be supported by the following documents and information:

(1) A note properly executed, together with the related mortgage properly executed and recorded.

(2) ~~Reasonable documentation~~ Documentation establishing the quality and validity of the credit union's lien position by one of the following:

(a) For purchase money loans:

1. A title policy in favor of the credit union covering its interest as mortgagee in the property; or

2. An abstract showing title in the borrower's name and the credit union's mortgage, together with an attorney's opinion indicating the credit union's lien position.

(b) For equity loans, one of the following:

1. An abstract of title and a signed report of title opinion by an attorney;

2. A title insurance policy; or

3. A ~~short form title search;~~ or title letter report.

~~4. A signed report of title opinion by an attorney.~~

(c) If the credit union has obtained the supporting documentation in accordance with par. (a) or (b), a subsequent extension of credit secured with the same real estate mortgage may be supported by a letter report from the title or abstract company, or a certified abstract showing the credit union's interest in the property as of the most recent extension of credit. No additional title documentation is required in connection with refinancing a loan on which no additional funds are advanced. Accrued interest debits, refinance charges and costs for insurance premiums are not considered additional advances.

(3) ~~An appraisal indicating separately the market value of the land and improvements securing each real estate mortgage loan, or a valuation if required by NCUA rules and regulations 12 CFR Part 722.~~

(4) A copy of insurance policies, with a mortgage clause payable to the credit union, indicating all improvements on the real estate are insured against fire and casualty loss. The required insurance coverage shall be the lesser of the full insurable replacement value of the improvements or the outstanding balance of the loan. Proof of insurance may be maintained through a third party contract.

(5) ~~A copy of written evidence~~ Evidence of the status of the payment of real estate taxes acceptable to the board of directors as defined by policy.

(6) Documentation of types of existing closed-end or open-end mortgages and balances or potential balances outstanding from all other lenders holding liens senior to the credit union mortgage.

(7) The credit union shall maintain a general ledger accounting system which clearly segregates real estate loans for reporting and statutory calculation purposes.

~~DFI CU 54.06 APPRAISAL. (1) To meet the requirements of s. CU 54.05 (3), an appraisal shall be performed by a qualified appraiser selected by the credit union as competent and knowledgeable about relevant markets, and subscribing to the uniform standards of professional appraisal practices.~~

~~(2) The appraiser may not be involved in lending and collection functions of the credit union, and may have no interest, financial or otherwise, in the transaction.~~

~~(3) An appraisal is not required for loans less than 60% of the fair market value of the real estate, as shown on the recent tax bill or bills. Loans in this category shall be supported by a written report indicating the property has been inspected by a person authorized by the board of directors. The inspector shall express an opinion of the acceptability of the property as security for the loan in question.~~

~~(4) The appraisal report shall be no more than 2 years old, except this requirement does not pertain to refinancing a loan on which no additional funds are advanced. Accrued interest debits, refinance charges and costs for insurance premiums are not considered additional advances.~~

~~(5) The credit union shall maintain a resume for each appraiser indicating, at a minimum, educational background, years of experience, types of clientele served, and professional memberships, certification or licenses.~~

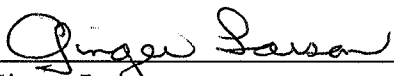
~~(6) Any person who has a direct or indirect ownership interest in the property to be appraised, or an interest in the loan applied for, may not qualify as an appraiser under this section.~~

~~DFI CU 54.07 DISCRETIONARY AUTHORITY RETAINED BY COMMISSIONER
The commissioner may limit, restrict or prohibit a credit union from making any type, category, or classification of loan governed by this chapter if examination results indicate the credit union is conducting its business in an unauthorized or unsafe manner or is violating the provisions of this chapter.~~

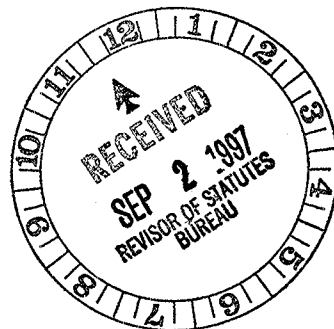
This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Dated: September 2, 1997

OFFICE OF CREDIT UNIONS



Ginger Larson
Director



ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

FISCAL ESTIMATE
DOA-2048 N(R10/96)

Subject

Revision of Chapter DFI-CU 54, Wisconsin Administrative Code.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The proposed revision of DFI-CU 54 is an update of the existing rule. It does not require any additional regulatory activity by our office. This rule has no fiscal effect on government expenditures at any level.

Long-Range Fiscal Implications

None

Agency/Prepared by: (Name & Phone No.)
Ginger Larson 266-8893
Director of Credit Unions

Authorized Signature/Telephone No.

Ginger Larson

Date

5/15/97