

WISCONSIN LEGISLATIVE COUNCIL STAFF

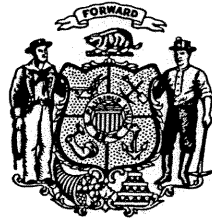
LCRC
FORM 2

RULES CLEARINGHOUSE

APR 26 1999

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-060

AN ORDER to repeal chapter Bkg 7, relating to real estate mortgage loans.

Submitted by **DEPARTMENT OF FINANCIAL INSTITUTIONS**

03-19-99 RECEIVED BY LEGISLATIVE COUNCIL.

04-15-99 REPORT SENT TO AGENCY.

RNS:RW:kjf;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

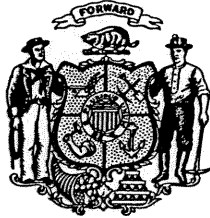
Comment Attached YES NO

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CLEARINGHOUSE RULE 99-060

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

In the second sentence of the analysis, the agency should correct the typographical error by replacing "it" with "its." In the next-to-last sentence, "mortgages" should be replaced with "mortgage."

5. Clarity, Grammar, Punctuation and Use of Plain Language

The agency, in its analysis, states that examiners of the Division of Banking "will review that proper documentation is maintained" for real estate mortgage loans in accordance with the principles of safety and soundness, in the same manner that they do for other categories of loans. Is a specific requirement requiring this review needed? What sanctions are available if appropriate documentation is not kept?

PROPOSED RULE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING

Analysis: To repeal DFI—Bkg 7. Statutory authority: Ss. 220.02(2) and 227.11(2), Stats.
Summary: Ch. DFI—Bkg 7 provides a definition for real estate mortgage loans and also establishes the documentation that a state-chartered bank must obtain for each real estate mortgage loan that it makes. It is the intention to repeal Ch DFI—Bkg 7 in its entirety. State-chartered banks compete with other financial institutions and non-financial institution lenders for real estate mortgage loans. The Office of Comptroller of the Currency ("OCC") regulates national banks. The OCC has no regulations regarding the required documentation of real estate mortgage loans. Likewise, no regulator establishes documentation requirements for non-financial institution lenders. In addition to real estate mortgage loans, state-chartered banks make commercial loans, installment loans, agricultural loans, and other types of loans. There are no regulations establishing documentation requirements for these other categories of loans. A one-size-fits-all approach to the documentation of real estate mortgage loans does not recognize the variety of real estate mortgage loan products available in the market, and does not allow state-chartered banks to compete on a level playing field with other lenders. Examiners of the Division of Banking will review that proper documentation is maintained for real estate mortgages loans, in accordance with the principles of safety and soundness, in the same manner that they do for other categories of loans. Agency person to be contacted for substantive questions and responsible for agency's internal processing: Michael J. Mach, Administrator, Division of Banking, tel. 266-0451.

Section 1. Ch. DFI—Bkg 7 is repealed.