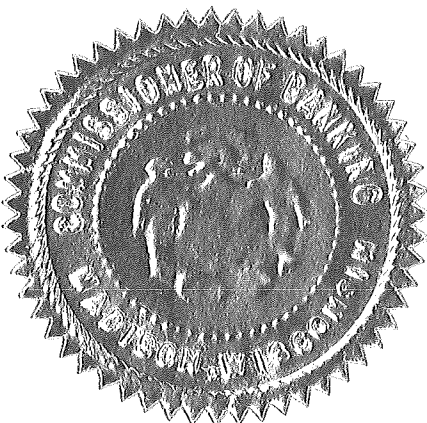


STATE OF WISCONSIN)
)
OFFICE OF COMMISSIONER OF BANKING)

I, Jennifer McKenzie, Deputy Commissioner of Banking and custodian of the official records of said office, do hereby certify that the annexed rule relating to real estate brokerage services was duly approved and adopted by this office on the 14th day of May, 1987.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Office of the Commissioner of Banking in the City of Madison this 14th day of May, A.D. 1987.



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MAY 14 1987
4:15pm
Revisor of Statutes
Bureau

ORDER OF THE OFFICE OF COMMISSIONER OF BANKING
ADOPTING RULES

Relating to Rules Concerning Real Estate Brokerage Services

Analysis prepared by the Office of Commissioner of Banking.

Chapter Bkg 16 is created to allow the offering of real estate brokerage services by a bank or its subsidiary.

Section 221.297(1), Stats., provides that "... a bank, directly or through a subsidiary may undertake any activity, exercise any power or offer any financially related product or service in this state that any other provider of financial products or services may undertake, exercise or provide or that the commissioner finds to be financially related."

- a. The Wisconsin Commissioner of Savings and Loan has authorized state savings and loan associations in Wisconsin to offer real estate brokerage services through wholly-owned subsidiaries. That authority is granted to the Commissioner of Savings and Loans by §215.13(26)(f), Stats., and is regulated under Chapter S-L 28, Wis. Adm. Code.
- b. In approving financially related activities, the Federal Reserve Board of Governors uses certain criteria. Among those criteria is a finding that banks generally provide services that are operationally or functionally so similar to the proposed service as to equip them particularly well to provide the proposed service. Another criteria is that banks provide services that are so integrally related to the proposed service as to require their provision in a specialized form.

The Commissioner finds that banks regularly make mortgage loans and other loans for real estate purposes; banks make appraisals and review real estate property; and, banks may own real estate conveyed to or purchased at sale by them to satisfy debts previously contracted in the course of their business.

- c. Real estate brokerage is a service undertaken by other providers of financial services and is a service that meets criteria established by the Federal Reserve Board of Governors as a financially related activity. Accordingly, the Commissioner of Banking finds that §221.297(1), Stats., authorizes the provision of real estate brokerage services by banks in Wisconsin.

Pursuant to the statutory authority vested in the commissioner of banking by ss. 220.02(2), 221.297(2) and 227.11(2)(a), Stats., the commissioner of banking hereby creates rules interpreting s. 221.297(1), Stats., as follows:

CHAPTER BKG 16

REAL ESTATE BROKERAGE SERVICES

SECTION 1. Chapter Bkg 16 is created to read:

Bkg 16.01 REAL ESTATE BROKERAGE SERVICES. In this chapter "real estate brokerage services" includes the attempt or arrangement of the purchase, sale, rental or exchange of an interest or estate in real estate. "Real estate brokerage services" does not include real estate development or investment activities.

NOTE: Bkg 16.01 creates a definition for the term "real estate brokerage services" to specify the nature of the activities that would be permitted in the offering of such services. Development or investment activities are excluded because of the nature of services offered pursuant to s. 221.297, Stats., are separate and distinct from any equity investment capabilities pursuant to s. 221.295, Stats.

SECTION 2. Bkg 16.02 is created to read:

Bkg 16.02 FINDING OF THE COMMISSIONER. Pursuant to s. 221.297(1), Stats., the commissioner finds that a real estate brokerage service is a financially related service and it is a service that other financial services providers may undertake.

SECTION 3. Bkg 16.03 is created to read:

Bkg 16.03 APPROVAL PROCEDURE. Organization of a division or subsidiary shall be made by first obtaining written approval of the commissioner and otherwise complying with the s. Bkg 3.04 and s. 221.297, Stats. Changes, additional investment or loans to the real estate brokerage service by the bank or its subsidiary are also required to have prior written approval of the commissioner. The commissioner shall have sixty (60) days from the date of receipt of the application in which the action shall be approved or disapproved.

NOTE: Bkg 16.03 sets forth the approval mechanisms and requirements for a bank wishing to offer real estate brokerage services pursuant to the expanded powers provisions at s. 221.297, Stats. Furthermore, the bank must comply with s. Bkg 3.04, operations through subsidiaries which requires at least 80% of the voting stock

of the subsidiaries being owned by the parent bank and subjects the subsidiary to all banking laws and rules as well as examination and supervision. Finally, it sets forth a time frame for the Office of Commissioner of Banking to approve such application.

SECTION 4. Bkg 16.04 is created to read:

Bkg 16.04 REPORTS REQUIRED. The real estate brokerage division or subsidiary shall provide to the commissioner an annual financial statement within ninety (90) days from the end of the fiscal year.

NOTE: Bkg 16.04 provides a mechanism to evaluate any changes in investment to allow the Commissioner to determine the strength or weakness of the venture for relationship to its affect upon the parent bank.

SECTION 5. Bkg 16.05 is created to read:

Bkg 16.05 BANK OFFERING OF REAL ESTATE BROKERAGE SERVICES. A bank may provide real estate brokerage services directly or through a subsidiary at its home office, authorized branch offices, and other locations, provided, the bank does not make loans, accept deposits, provide trust services other than as permitted by s. 221.04(6), Stats., or cash checks or other negotiable instruments at such other locations. Notification of locations shall be made annually as part of the financial statement. Prior approval by the commissioner of such other locations is not required.

NOTE: Bkg 16.05 is created to clarify the locations available to a bank establishing a real estate brokerage service. The intent is to see that unauthorized branching does not occur.

SECTION 6. Bkg 16.06 is created to read:

Bkg 16.06 REAL ESTATE SERVICES PROVIDED BY BANK EMPLOYEES. No officer or employee of a bank who personally approves a borrower's application with respect to a particular real estate loan shall receive any commission earned on the sale of the real estate related to the loan. Any such commission shall be paid directly to the bank.

NOTE: Bkg 16.06 is to further clarify the separation between bank officer or employee duties and their relationship to the bank division to protect potential customers from any abuse. The

section is not intended to create an inability of a bank to cross sell a product, but rather to respond to lending concerns.

SECTION 7. Bkg 16.07 is created to read:

Bkg 16.07 DISCRETIONARY AUTHORITY OF THE COMMISSIONER. The commissioner may, pursuant to s. 221.297, Stats., on an individual case basis, restrict, limit, prohibit or revoke the authority of a bank to operate a real estate brokerage service division or subsidiary.

NOTE: Bkg 16.07 creates discretionary authority to approve, modify or reject operation of a real estate brokerage division or subsidiary. This section is necessary based upon the statutory requirements already discussed at s. Bkg 3.04, s. 221.295 and s. 221.29, Stats., which place strict percentage restrictions on a parent bank's involvement.

SECTION 8. Bkg 16.08 is created to read:

Bkg 16.08 COMPLIANCE WITH OTHER LAWS. The real estate brokerage services offered by a bank or its subsidiary shall comply with ch. 452, Stats., and other applicable laws and administrative rules.

NOTE: Bkg 16.08 is to clarify that any approved real estate brokerage service is subject to licensing requirements under the authority of the Department of Regulation and Licensing and any other Federal or State laws or administrative rules.

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May 14, 1987

MAY 14 1987

Revisor of Statutes
Bureau

State of Wisconsin
Office of Commissioner of Banking

Tommy G. Thompson
Governor

Richard E. Galecki
Commissioner

Mr. Gary Poulson
Assistant Revisor of Statutes
9th. Floor
30 W. Mifflin
Madison WI 53703

Re: Clearing House Rule 87-7

Dear Mr. Poulson:

Attached please find a certified copy and one additional copy of this rule for publication in the Administrative Code. The rule was submitted to the Senate and Assembly in final draft form on February 20, 1987. The Senate Committee on Aging, Banking, Commercial Credit and Taxation objected and referred the rule to the Joint Committee for Review of Administrative Rules, where it was modified to meet the Standing Committee's objection. The Joint Committee took no action with respect to the rule within 30 days of referral.

Sincerely,


Jennifer McKenzie
Deputy Commissioner

JMK:nap