

Chapter CU 54

REAL ESTATE MORTGAGE LOANS IN CREDIT UNIONS

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CU 54.01 Purpose and scope. (1) It is the purpose of this chapter to permit Wisconsin credit unions to make real estate mortgage loans to their members in accordance with applicable state and federal 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 sound business judgment. The commissioner may require corrective action be taken if it is determined lending practices are imprudent, even though individual loans may comply with the minimum requirements.

(2) The commissioner may by general correspondence to all credit unions increase the \$15,000 minimum for real estate mortgage loans exempt from the requirements of this chapter.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.02 Definitions. In this chapter:

(1) "Real estate mortgage loan" means any loan of \$15,000 or more secured in whole or in part by a first or subordinate lien on real estate. Loans secured with collateral, in addition to the real estate mortgage, which collateral has a value equal to or exceeding the outstanding balance of the loan, and loans of less than \$15,000 are exempt from the requirements of this chapter.

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

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

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.03 Limitations on real estate mortgage loans. A credit union may make first and subordinate mortgage loans to members secured with improved real estate, subject to the following limitations:

(1) The aggregate of real estate mortgage loans shall not exceed 50% of total assets.

(2) First mortgage real estate loans without mortgage insurance shall be limited in amount not to exceed 80% of the appraised value of the mortgaged real estate.

(3) First mortgage real estate loans may be granted in amounts up to 90% of the appraised value of the real estate, provided the balance in excess of the 80% limitation cited in sub. (2) is covered by mortgage insurance.

(4) The credit union board of directors shall establish the policy with regard to loan equity requirements for subordinate real estate mortgage loans. Subordinate real estate mortgage loans shall be limited in amount not to exceed 80% of the borrower's equity.

(5) The term of a mortgage loan shall not exceed 30 years commencing the latter of:

- (a) The date of closing;
- (b) The date of the first contractual monthly payment 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.

(6) Section 186.01 (4) (b), Stats., exempts first mortgage loans from the risk asset category on which regular reserves are required. It is the responsibility of the board of directors to require a system of general ledger accounts which clearly segregates the first mortgage loans from subordinate mortgage loans.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.04 First mortgage real estate loans—required documentation. Each first mortgage real estate loan shall be supported by the following documents and information:

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

(2) (a) One of the following:

1. A current abstract showing title in the borrower, and the credit union's mortgage, together with an attorney's opinion indicating the credit union has first lien; or

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

(b) If the credit union has obtained the supporting documentation in accordance with par. (a) of this section, a subsequent extension of credit secured with the same real estate mortgage may be supported by a letter opinion from the abstract company, or a current 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 in which no additional funds are advanced.

(3) An appraisal indicating separately the market value of any land and improvements. An acceptable appraisal report shall not be more than 3 years old at the date of the loan application.

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(4) Original or 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 insurance coverage shall be the lesser of:

(a) The full insurable value of the improvements; or

(b) The outstanding balance of the loan.

(5) The original or photostatic copy of:

(a) Receipts covering real estate taxes paid on the mortgaged property since the previous departmental examination; or

(b) Other written evidence of the payment of real estate taxes acceptable to the board of directors as defined in the corporate minutes.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.05 Subordinate real estate mortgage loans—required documentation. Each subordinate real estate mortgage loan shall be supported by the following documents and information:

(1) A note properly executed and a mortgage instrument properly signed and recorded.

(2) Reasonable documentation establishing the quality and validity of the credit union's lien position relative to other outstanding mortgages and liens by one of the following:

(a) An abstract of title.

(b) A title insurance policy.

(c) A short form title search.

(d) A signed report of title opinion by an attorney.

(e) A signed report by an officer, director, committee member or employe of the credit union who has been authorized by the board of directors to provide reports concerning the credit union lien status.

(3) An appraisal or other authoritative evidence of the fair market value of the property to be mortgaged to the credit union.

(4) Written statements of balances outstanding from all other lenders holding liens senior to the credit union mortgage.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.06 Appraisals. (1) Except as provided in sub. (2), appraisals required by s. CU 54.04 (3) shall be performed by:

(a) A person who is a member of a recognized professional appraisal organization or society; or

(b) A licensed real estate agent or broker; or

(c) A person with at least 5 years experience as a real estate appraiser.

(2) For loans less than 60% of the fair market value of the real estate, as shown on the recent tax bill or bills, the appraisal required under s. CU 54.04 (3) may be performed by any disinterested person certified by the

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board of directors as qualified to make appraisals, based on prior work, training, or experience.

(3) Any person who has a direct or indirect ownership interest in the property to be appraised shall not qualify as an appraiser under this section.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.

CU 54.07 Discretionary authority retained by commissioner. The commissioner may, for good and sufficient reason, limit, restrict or prohibit a credit union from making any type, category, or classification of loan governed by this chapter.

History: Cr. Register, July, 1983, No. 331, eff. 8-1-83.