



NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

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June 26, 1987

Office of General Counsel

Mr. John C. Engel
Wisconsin Credit Union League
10025 W. Greenfield Avenue
West Allis, Wisconsin 53214

Dear Mr. Engel:

This is in response to your letter of March 27, 1987, which requested clarification on several issues relating to Part 760 of the NCUA Rules and Regulations, 12 C.F.R. Part 760, which governs flood insurance.

We should point out that Part 760 of the NCUA Rules and Regulations, which implements the Flood Disaster Protection Act of 1973, applies to all federally-insured credit unions. Your questions and our responses are set forth below.

1. "First, when the (federally-insured) credit union is lending to two or more co-borrowers in a flood hazard area, must the required notices be given to and acknowledged by each co-borrower, or just one?"

Legal counsel for the Federal Emergency Management Agency, the agency which administers the National Flood Insurance Program (NFIP), has taken the position that if a party signs the mortgage or deed, they should be given the notice required by 42 U.S.C. Sections 4104a and 4106(b). Sections 760.4(a) and 760.4(b) of the NCUA Rules and Regulations implement these two provisions.

Section 760.4(a) of the NCUA Rules and Regulations provides that if a federally-insured credit union determines that the improved real property or mobile home that will secure a loan is or will be located in a special flood hazard area, it must give the borrower written notice of that fact before a mortgage or any other security agreement is signed. The notice does not have to be given if the seller or lessor of the property states in writing that he has already given notice to the borrower and the borrower acknowledges such notice.

Section 760.4(b) provides that a federally-insured credit union must give the borrower written notice stating whether Federal

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disaster relief assistance will be available if the property is damaged by flooding in a federally-declared disaster. Federal disaster relief assistance is available if the property is located in a community participating in the NFIP.

2. "Is flood insurance required when the improved real estate is located in a special flood hazard area which is not an NFIP participating community? Also, the Flood Disaster Protection Act of 1973 seems to require the NCUA to prohibit real estate loans in flood hazard areas which are not participating in the NFIP. 42 U.S.C. §4106(b)."

The answer to this question is dependent upon whether the federally-insured credit union is making a conventional loan or a loan that is to be insured, guaranteed, or granted by an agency of the Federal government (e.g., VA, FHA, SBA). A federally-insured credit union does not have to require flood insurance as a condition of any conventional loan (whether new, increased, extended, or renewed) if the community in which the improved real estate (or mobile home) is located does not participate in the NFIP. If the property in question is located in a special flood hazard area as shown on a Flood Hazard Boundary Map (FHBM) or a Flood Insurance Rate Map (FIRM) and the community in which the property is located participates in the NFIP, flood insurance is required as a condition of any conventional loan.

A federally-insured credit union may not make a loan for acquisition or construction of improved real estate or a mobile home, whether secured by the property in question or not, if the improved real estate or mobile home is located in a special flood hazard area as shown on the FHBM or FIRM, the loan is to be insured, guaranteed, or granted by an agency of the Federal government, and the community where the property is located has been identified as having special flood hazard areas for one year or more, and is not participating in the NFIP (i.e., it has elected not to participate, or it has withdrawn from the program, or it has been suspended from the program). See, 42 U.S.C. Section 4106(a).

Section 4106(b) of the Federal Disaster Protection Act as originally enacted would have prohibited federally-insured credit unions from making, increasing, extending, or renewing any loan (conventional and federally-insured, guaranteed or granted by an agency of the Federal government) secured by improved real estate or a mobile home after July 1, 1975, with limited exceptions, in an area identified as having special flood hazards, if the community in which the property was located was not participating in the NFIP. This provision was amended in 1977. The provision now requires a federally-insured credit union to notify the purchaser or lessee of whether, in the event of a flood, Federal disaster relief assistance will be available. The provision no longer prohibits federally-insured credit unions from making certain types of loans.

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4. "Does the personal property insurance requirement of Reg. 760.3(c) include personal property other than that for which NFIP flood insurance coverage is available?"

Section 760.3 provides that, where flood insurance is required, the flood insurance must cover the building or the mobile home as well as any personal property securing the loan. This provision implements 42 U.S.C. §4012a(b) of the Flood Disaster Protection Act. Under §4102a(b), flood insurance on personal property securing the loan is only required if it is the type of personal property insurable under the NFIP.

We trust this has been of assistance.

Sincerely,



STEVEN R. BISKER
Assistant General Counsel

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