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NATIONAL CREDIT UNION ADMINISTRATION
Washington, D.C. 20456

January 25, 1989

Office of General Counsel

Scott L. Volkman, Esq.
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P.O. Box 750
Poughkeepsie, New York 12602-0750

Re: Mortgage or Home Equity Loans on Vacation Homes
(Your December 2, 1988 Letter)

Dear Mr. Volkman:

You have asked whether a member of a Federal credit union ("FCU") may obtain a second mortgage or home equity loan on a vacation home. To qualify for a long-term mortgage loan, i.e., one in excess of 15 years, the loan must be secured by a first mortgage on a dwelling that is or will be the principal residence of the member. A vacation home would not meet this requirement unless it is the member's intent to make the vacation home his principal residence at some point in the future. An FCU member may obtain a 15-year second mortgage loan on a vacation home provided the statutory requirements of Section 107(5) of the FCU Act [12 U.S.C. 1757(5)], as well as the regulatory requirements for such loans (Section 701.21 [12 C.F.R. §701.21]), are met. If the member does not meet the requirements for a long-term or 15-year loan, he may obtain a loan with a maturity of up to 12 years or obtain a line of credit on the vacation home.

BACKGROUND

An FCU member owns two homes, his residence and a vacation home. The member has asked the FCU for a "second mortgage or Home Equity" on the vacation home.

ANALYSIS

Section 107(5) of the FCU Act authorizes an FCU to:

make loans, the maturities of which shall not exceed twelve years except as otherwise provided herein, and extend lines of credit to

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its members . . . in accordance with the following:

(A) Loans to members shall be made in conformity with criteria established by the board of directors; Provided, That --

(i) a residential real estate loan on a one-to-four family dwelling, including an individual cooperative unit, that is or will be the principal residence of a credit union member, and which is secured by a first lien upon such dwelling, and may have a maturity not exceeding thirty years or such other limits as shall be set by the National Credit Union Administration Board . . .

(ii) a loan to finance the purchase of a mobile home, which shall be secured by a first lien on such mobile home, to be used by the credit union member as his residence, a loan for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member, or a second mortgage loan secured by a residential dwelling which is the residence of the credit union member, shall have a maturity not to exceed 15 years or any longer term which the Board may allow.

Section 701.21(g) of NCUA's Rules and Regulations [12 C.F.R. 701.21(g)] provides:

A Federal credit union may make residential real estate loans to members, with maturities of up to 40 years, or such longer period as may be permitted by the NCUA Board on a case-by-case basis, subject to the conditions of this Section (701.21(g)). . . .

In order to qualify for a long-term mortgage, i.e., one in excess of 15 years, the loan must be secured by property which is or will be the principal residence of a member. A vacation home does not satisfy this requirement unless it is the member's intent to make the vacation home his principal residence at some point in the future. In addition, all of the applicable statutory requirements of Section 107(5) of the FCU Act and the applicable regulatory requirements of Section 701.21 (Section 701.21(g) in particular) of the NCUA Regulations must be satisfied.

Since Section 107(5)(A)(ii) (15-year loan authority) refers only to "the residence" and not to a "principal residence," we have interpreted this section to permit an FCU to grant a 15-year loan on a residence other than the principal residence of a member provided the loan also conforms to the requirements in the FCU

Act for 15-year loans (Section 107(5)) and the applicable regulatory requirements (Section 701.21 , Section 701.21(f) in particular).

An FCU also has the option of granting a member a line of credit that is secured by the equity in a vacation home. Section 701.21(c)(4) of NCUA's Rules and Regulations [12 C.F.R. 701.21(c)(4)] provides:

The maturity of a loan to a member may not exceed 12 years [except as otherwise provided in the FCU Act and NCUA's Rules and Regulations]. Lines of credit are not subject to a statutory or regulatory maturity limit. Amortization of line of credit balances and the type and amount of security on any line of credit shall be as determined by contract between the Federal credit union and the member/borrower.

If a home equity line of credit is granted under this provision, the issue of whether the line is secured by a principal residence becomes moot.

As a final alternative, the FCU may make a 12-year mortgage loan on a vacation home subject to the regulatory requirements in Section 701.21.

Sincerely,



HATTIE M. ULAN
Acting Assistant General Counsel

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