



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

October 2, 1990

Ms. Mary K. Monteith
Langley Federal Credit Union
P.O. Box 7463
Hampton, Virginia 23666

Re: 701.21(f) and (g) of NCUA Regulations (Your June 7, 1990, Letter)

Dear Ms. Monteith:

You have asked whether a federal credit union member who wishes to apply for a first mortgage loan on his principal residence, when the residence has no existing first mortgage lien, is restricted to a 20-year loan maturity. The answer is no. A member can qualify for a 40-year loan if the statutory and regulatory requirements are satisfied.

APPLICABLE LAW

Section 701.21(f) of NCUA's Rules and Regulations (12 C.F.R. 701.21(f)) states in part:

Notwithstanding the general 12-year maturity limit on loans to members, a Federal credit union may make loans with maturities of up to 20 years in the case of . . . a second mortgage loan (or a nonpurchase money first mortgage loan in the case of a residence on which there is no existing first mortgage) if the loan is secured by a residential dwelling which is the residence of the member-borrower. . . .

Section 701.21(g) of NCUA Rules and Regulations (12 C.F.R. 701.21(g)) states in part that:

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Vol. T. Part C. 6. P. 1. C. F. R. 701.21(f)

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(1) Authority. 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).

(2) Statutory limits. The loan shall be made on a one to four family dwelling that is or will be the principal residence of the member-borrower and the loan shall be secured by a perfected first lien in favor of the credit union on such dwelling (or a perfected first security interest in the case of either a residential cooperative or a leasehold or ground rent estate). . . .

ANALYSIS

You have asked whether a borrower who wishes to apply for a first mortgage on his principal residence when such dwelling has no existing first mortgage lien is restricted to the 20-year maturity limit. Clearly, the language in Section 701.21(f) allows for a loan maturity of up to 20 years on first mortgage nonpurchase money transactions in the case of a residence on which there is no existing first mortgage. In addition, the preamble to this section when it was proposed for comment stated:

. . . . under circumstances where a member has no mortgage on the house he or she currently resides in, a first mortgage loan may be made with a maturity up to 15 years without regard to the additional statutory and regulatory provisions affecting longer term first mortgages (48 F.R. 52475, 11/8/83)

The 15-year authority was subsequently increased to 20 years. However, a member wishing to obtain a nonpurchase money first mortgage is not limited to this section of the regulation. A member can also qualify for a 40-year loan on his principal residence, when the residence has no existing first mortgage lien, if the statutory and regulatory requirements for long-term mortgage loans are satisfied (see Section

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701.21(g)(1) - (6)). In addition, if a borrower wants to apply for a first mortgage loan on his principal residence and such dwelling has an existing first mortgage lien, then the borrower is permitted to refinance with a maturity limit of up to 40 years. (See 47 F.R. 55424, 12/3/82, preamble and final amendments). We also note that a line of credit can be secured by a residence (home equity) and is not subject to any maturity limit.

Sincerely,

Hattie M. Ulan

Hattie M. Ulan
Associate General Counsel

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90-0618