



NATIONAL CREDIT UNION ADMINISTRATION

WASHINGTON, D.C. 20456

March 31, 1992

Kristen D. Tatlock
Virginia Credit Union League
P.O. Box 11469
Lynchburg, VA 24506

Re: ~~Member Business Loans~~ (Your February 7, 1992,
Letter)

Dear Ms. Tatlock:

In a letter to D. Michael Riley, Director of the Office of Examination and Insurance, you requested an opinion on whether certain loans are considered business loans for purposes of the NCUA Rules and Regulations. Mr. Riley requested that our office respond to your questions. The loans cited in all three of your examples are not considered business loans for purposes of the NCUA Rules and Regulations since the loan proceeds will not be used for a commercial or investment purpose.

Section 701.21(h)(1) of NCUA's Rules and Regulations (12 C.F.R. 701.21(h)(1)) currently defines a member business loan, in part:

. . . . as any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, corporate, business, investment property or venture, or agricultural purpose [excluding] (A) A loan or loans secured by a lien on . . . the member's primary residence.

Prior to January 1, 1992, loans secured by a member's secondary residence and one additional residence were also exempted from the definition of a business loan. As of January 1, 1992, the new member business loan rule no longer excludes such loans from its coverage. Only loans secured by the primary residence are excluded.

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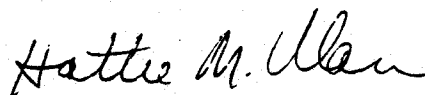
You have asked whether the loans in the following examples are considered business loans.

Examples

1. A credit union makes a \$60,000 loan to a member, secured by rental property owned by the member, to pay off the mortgage on his primary residence in order to take advantage of a capital gains exemption on his taxes. The member does not need the income from the rental property to repay the loan.
2. A credit union grants a member a loan for a noncommercial purpose, secured by rental property owned by the member.
3. A credit union grants a loan to a member to purchase a recreational vehicle. The loan is secured by rental property and the member will rely on rental income to repay the loan.

In all three examples, the loans are not considered business loans since the proceeds of the loans are not being used for a commercial purpose. It is irrelevant to the definition of a business loan whether the collateral is rental property or that the source of repayment is rental income. As long as the proceeds of the loan are not being used for a commercial purpose, it is not considered a business loan. Although the loans in your examples are not considered business loans for purposes of the business loan regulation (Section 701.21(h)), they are subject to other regulations as well as any safety and soundness considerations.

Sincerely,



Hattie M. Ulan
Associate General Counsel

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