

CHAPTER 9
REAL ESTATE LENDING
[Prior to 7/6/94, see 189—Chs 9 and 10]

189—9.1(533) Real estate lending. These rules shall apply to real estate-related loans either originated by a credit union or acquired by purchase, assignment or otherwise.

9.1(1) The board of directors of the credit union shall formulate and maintain a written real estate lending policy that is appropriate for the size of the credit union and the nature and scope of its operation. Each policy must be comprehensive and consistent with safe and sound lending practices. The standards and limits established in the policy must be reviewed and approved at least annually by the board. The real estate lending policy should reflect the level of risk that is acceptable to the board and should provide clear and measurable underwriting standards that enable the credit union's lending staff to evaluate all relevant credit factors. The real estate lending policy, at a minimum, should:

- a. Establish loan portfolio diversification standards.
- b. Set appropriate terms and conditions by type of real estate loan.
- c. Establish loan origination and approval procedures.
- d. Establish prudent underwriting standards which include clear and measurable loan-to-value limitations.
- e. Establish review and approval procedures for exempted loans.
- f. Establish loan administration procedures.
- g. Establish real estate appraisal and evaluation programs.
- h. Monitor the portfolio and provide timely reports to the board of directors.
- i. Establish conformance with secondary market investor requirements where applicable.

9.1(2) The board of directors of the credit union shall establish its own internal loan-to-value (LTV) limits for real estate loans.

When formulating the real estate policy, the board should consider both internal and external factors, such as size and condition of the credit union, expertise of its lending staff, avoidance of undue concentrations of risk, compliance with all real estate-related laws and rules, and general market conditions.

9.1(3) Real estate loan made for sale into the secondary market shall be considered in transit for a period of up to 90 days after being sold and shall not be considered risk assets for reserving purposes during this time period.

This rule is intended to implement Iowa Code sections 533.4(21) and 533.16(4)“a.”

189—9.2(533) Evidence of title. When lending for the purpose of acquisition or for the purpose of refinance of acquisition, when a new mortgage, deed of trust, or similar instrument is filed, the credit union shall obtain either:

1. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the credit union's mortgage, deed of trust, or similar instrument is a first lien on the real estate; or
2. Title insurance written by an insurance company licensed to do business in the state in which the real estate is located describing any existing liens and insuring the title to the real estate and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a first lien on the real estate.

This rule is intended to implement Iowa Code sections 533.4(21) and 533.16(4)“a.”

[Filed 11/9/79, Notice 9/5/79—published 11/28/79, effective 1/30/80]

[Filed 12/20/79, Notice 10/31/79—published 1/9/80, effective 2/13/80]

[Filed emergency 9/24/82 after Notice 8/4/82—published 10/13/82, effective 9/24/82]

[Filed 2/22/85, Notice 11/7/84—published 3/13/85, effective 4/17/85]

[Filed emergency 8/21/86—published 9/10/86, effective 8/21/86]

[Filed 6/15/94, Notice 5/11/94—published 7/6/94, effective 8/10/94]
[Filed 1/24/97, Notice 12/18/96—published 2/12/97, effective 3/19/97]
[Filed 1/31/03, Notice 12/25/02—published 2/19/03, effective 3/26/03]
[Filed 11/3/05, Notice 9/28/05—published 11/23/05, effective 12/28/05]