

NCUA-IR - 80-10 WHEN FCU'S CAN CHARGE MORE THAN 15%
PERCENT PER ANNUM ON GOVERNMENT INSURED OR
GUARANTEED LOANS 10/80

NATIONAL CREDIT UNION ADMINISTRATION

12 C.F.R. 701.21-5

IRPS 80-10

STATEMENT OF INTERPRETATION AND POLICY: When Federal Credit Unions Can Charge More Than 15 Percent Per Annum on Government Insured or Guaranteed Loans

AGENCY: National Credit Union Administration

ACTION: Statement of interpretation and policy.

SUMMARY: This document states that on a government insured or guaranteed loan, a Federal credit union may charge an interest rate in excess of 15 percent per annum on the unpaid balance inclusive of all finance charges if a higher rate is either expressly required or expressly permitted by the laws and regulations governing the insured or guaranteed loan program. This interpretation and policy statement is needed because certain government agencies have recently raised the permissible interest rates on insured or guaranteed loans to rates in excess of 15 percent per annum on the unpaid balance inclusive of all finance charges.

EFFECTIVE DATE: [Effective on publication in the Federal Register.]

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: John L. Culhane, Jr., Attorney Advisor, Office of General Counsel, or Thomas C. Buckman, Staff Accountant (Analyst), Office of Examination and Insurance. Telephone Numbers: (202) 357-1030 (Mr. Culhane), (202) 357-1065 (Mr. Buckman).

SUPPLEMENTARY INFORMATION:

Recently, certain government agencies have raised the permissible interest rates on insured or guaranteed loans to rates in excess of 15 per cent per annum on the unpaid balance inclusive of all finance charges. The Department of Housing and Urban Development has raised the maximum finance charge on insured mobile home loans from 15.00 percent to 15.50 percent. HUD has also raised the maximum charge on insured property improvement loans from 15.00 percent to 15.50 percent. 45 F.R. 63838 (1980). In addition, the Veterans Administration has raised the maximum rate on energy loans to 15 1/2 percent per annum on the unpaid principal balance. 45 F.R. 63841 (1980). As a result, the question has been raised whether the Federal Credit Union Act and NCUA's regulations permit Federal credit unions to charge interest rates in excess of 15 per centum per annum on government insured or guaranteed loans.

Section 107(5)(A)(vi) of the Federal Credit Union Act provides that the rate of interest on Federal credit union loans may not normally exceed 15 per centum per annum on the unpaid balance inclusive of all finance charges. 12 U.S.C. 1757(5)(A)(vi). However, a special statutory provision applies in the case of government insured or guaranteed loans. Section 107(5)(A)(iii) of the Federal Credit Union Act states that "a loan secured by the insurance or guarantee of the Federal Government, of a State Government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance or guarantee is provided." 12 U.S.C. 1757(5)(A)(iii). Section 701.21-5 of NCUA's regulations interprets this statutory provision to mean that "a Federal credit union which has been qualified as a lender under a Federal or State insured or guaranteed loan program may make loans to members under the terms and conditions and within the maturities specified by the laws and regulations governing the program." 12 C.F.R. 701.21-5(a).

The National Credit Union Administration concludes that the phrase "terms and conditions" was meant to include the interest rate on loans and that "specified" was meant to cover situations where a term and condition is either expressly required or expressly permitted. Consequently, this interpretive ruling and policy statement has been approved to clarify that a Federal credit union can charge an interest rate in excess of 15 percent per annum on the unpaid balance inclusive of all finance charges on government insured or guaranteed loans, if a higher rate is either expressly required or expressly permitted by the laws and regulations governing the insured or guaranteed loan program. In making this decision, NCUA notes that guarantees and insurance are used by government agencies to encourage lending for certain social or economic objectives. NCUA believes that Congress did not intend for Federal credit unions to be precluded from participating in government insured or guaranteed loan programs simply because of rising interest rates.

Text of Statement of Interpretation and Policy (IRPS 80-10):

Section 107(5)(A)(iii) of the Federal Credit Union act states that "a loan secured by the insurance or guarantee of the Federal Government, of a State Government, or any agency of either may be made for the maturity and under the terms and conditions specified in the law under which such insurance or guarantee is provided." Section 701.21-5(a) of NCUA's regulations states that "A Federal credit union which has been qualified as a lender under a Federal or State insured or guaranteed loan program may make loans to members under the terms and conditions and within the maturities specified by the laws and regulations governing the program."

NCUA interprets the phrase "terms and conditions" to include the interest rate on the loan. NCUA also interprets "specified" to mean that the term and condition is either expressly required or is expressly permitted by the laws and regulations governing the program. Consequently, a Federal credit union may charge an interest rate in excess of 15 percent per annum on the unpaid balance inclusive of all finance charges on a government insured or guaranteed loan if the higher rate is either expressly required or expressly permitted by the laws and regulations governing the program.

ROSEMARY BRADY
Secretary, NCUA Board

October 23, 1980

WITHDRAWN