

October 18, 1996

Phyllis Thompson, President & CEO
Albertsons Employees' Federal Credit Union
P.O. Box 8145
501 East Highland St.
Boise, Idaho 83707

Re: Flood Insurance Requirements (Your September 6, 1996, Letter)

Dear Ms. Thompson:

You have asked whether the National Flood Insurance Reform Act (the "Reform Act") applies to your credit union's lending program which uses a member's stock in your sponsor as collateral for the loan. If the loan is in excess of \$5,000 and real estate is part of the collateral then the Reform Act and NCUA's Regulations apply.

The loans are written as single payment notes with a one year maturity. The loan value is 65% of the market value of the stock and the loan balance is to be repaid through the sale of stock. You sometimes allow a borrower to file a deed of trust on their stock secured loan so that they can attempt to qualify for a tax deduction. You state that the credit union does not consider the mortgage lien as a method of repaying the loan but rather, in the event of a loan default, the credit union would exercise its right to sell the stock and repay the loan.

The Reform Act and NCUA's recently amended flood insurance regulations apply when a federally insured credit union makes, increases, extends or renews a loan secured by improved real property or a mobile home. See Public Law 103-325, Stat. 2160 §522 and 12 C.F.R. §760.3. NCUA's amended rule, which is being issued jointly with the other federal financial institution agencies, will soon be issued in the Federal Register. The preamble to this regulation stated in part that:

Five commenters requested that the final rule provide that Federal flood insurance requirements do not apply to loans where a security interest in improved real property is only taken "out of an abundance of caution." Section 102(b)(1) of the 1973 Act, as amended by the Reform Act, provides that a regulated lending institution may not make, increase, extend, or renew any loan secured by improved real property that is located in a special flood hazard area unless the improved real property is covered by the minimum amount of flood insurance required by statute. The requested exception is not available under the 1973 Act.

However, Section 760.4(b) of NCUA's Regulations provides an exemption from the requirements prescribed by Section 760.3 if the "[p]roperty securing any loan with an original principal balance of \$5,000 or less and a repayment term of one year or less." If the loan you describe is secured by real estate and is in excess of \$5,000, the loan would be subject to NCUA flood insurance regulations. If the regulation applies, the credit union must determine whether the real property securing the real estate/stock loan is located in a special flood hazard and whether flood insurance is available through the National Flood Insurance Program (NFIP) before completing the transaction. If the real property is located in such an area, and flood insurance is available through the NFIP, then the borrower must purchase adequate flood insurance before the loan can be granted. 12 C.F.R. 760.3(a).

Sincerely,

Richard S. Schulman

Associate General Counsel

GC/MJMcK:bhs

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