

**INTERPRETIVE LETTER 91-10 (MAY 2, 1991)**

**State bank may correct technical deficiency by obtaining appraiser's oath for one of two required appraisals in order for loan to be qualified real estate loan.**

I am writing to clarify this Office's position with respect to the validity of an appraisal relied upon by your bank in making a "qualified real estate loan." As I understand the relevant facts, a loan or line of credit to \* and \* is collateralized by real estate. Two appraisals indicate that the value of the real estate is worth at least twice the principal amount of the loan. One of those appraisals, dated \* and rendered by \*, does not contain language verifying that the appraisal is "sworn to" or made "on the oath of" the appraiser.

A loan merits treatment as a "qualified real estate loan" if it complies with subsection (3) of Section 32 of the Illinois Banking Act. Section 32(3) requires, among other things, that the loan be collateralized by real estate "the value of which, as ascertained by the oath of two qualified appraisers...is double the amount of the principal debt secured...." The primary requirement is that the two appraisals indicate that the value of the real estate collateral is twice the amount of the loan. The technical requirement that the appraisal include the "oath" of the appraiser is a requirement that lends credence to the appraisal. The fact that \*'s appraisal of \* did not include an "oath" is a technical deficiency with respect to your bank's desire to treat the \* loan as a qualified real estate loan. It is not the practice of this Agency to cite a violation of Section 32(3) when we discover a technical deficiency in an appraisal which the bank obtained and relied upon in good faith. When the technical deficiency can be cured after it has been discovered, this Agency expects that the bank will take reasonable measures to cure the deficiency promptly.

With respect to the \* appraisal made by \*, this Agency believes that the technical deficiency can be cured if \* provides your bank with written confirmation that his \* appraisal was true and accurate in his opinion and this written confirmation contains language to the effect that \* "swears to the validity" of his appraisal, confirms the validity of his appraisal "on his oath," or some similar language. If your bank receives such written confirmation from \*, this Agency would consider the technical deficiency to be cured and would consider the loan to \* and \* to be a qualified real estate loan.