

INTERPRETIVE LETTER 93-014 (AUGUST 4, 1993)

Bank officer who is certified appraiser may not prepare appraisal for qualified real estate loans.

Your letter to * has been referred to me for response. In your letter you presented questions pertaining to the preparation of real estate appraisals for the subsidiary banks of * ("Bancorp"), *, Illinois, by an officer of * ("Bank"), *, Illinois, who is a certified appraiser.

You first asked if Bank could use a real estate appraisal by its officer/certified appraiser for purposes of granting qualified real estate loans under Section 32(3) of the Illinois Banking Act, 205 ILCS 5/32(3) (1992), [Ill. Rev. Stat. ch. 17, par 339(3) (1991)]. Section 32(3) is quite clear as to those individuals who may not prepare appraisals for use in supporting qualified real estate loans. No appraisals prepared by an "officer, director or employee of the bank" planning to grant a qualified real estate loan may be used for purposes of Section 32(3). It is the position of this Agency, therefore, that Bank may not use an appraisal prepared by its officer/certified appraiser for the purpose of granting a qualified real estate loan under Section 32(3).

You next asked if each of the subsidiary banks of Bancorp would be permitted to use appraisals prepared by Bank's officer/certified appraiser in situations involving "non-qualified" real estate. Those banks may use the appraisals of the officer/certified appraiser in situations not involving qualified real estate as long as no state or federal laws, rules, or regulations otherwise prohibit the use of appraisals prepared by a bank officer. Unlike appraisals for qualified real estate, the Illinois Banking Act does not prohibit the use of officers, directors or employees for other types of real estate loans. However, even when the appraisals prepared by an officer/certified appraiser are used by Bancorp's subsidiary banks, we suggest that the banks establish a policy requiring such real estate appraisals to be prepared by a person other than the person responsible for the particular loan transaction.

For your reference, we have enclosed copies of the regulations promulgated by the Federal Deposit Insurance Corporation, 12 C.F.R. Sections 225.61 et seq., and the Board of Governors of the Federal Reserve System, 12 C.F.R. Sections 323.1 et seq., which address the general standards pertaining to licensed and certified real estate appraisers.