

INTERPRETIVE LETTER 95-1 (MARCH 2, 1995)

A state bank is authorized to purchase the residence of an employee who has been transferred to another area, provided that the bank divests ownership of the property as soon as practicable .

This is in reply to your letter dated * and addressed to District Supervisor * of this Agency. * ("Bank") is considering the purchase of residences of certain officers of Bank. These officers have been reassigned to positions with Bank in market areas where the officers do not currently reside. Bank is proposing to purchase their current residences "to allow for the immediate transfer of such officers and to spare them any loss due to the then-prevailing real estate markets." Following the purchase of any residence under Bank's proposal, your letter states that Bank would divest ownership of the acquired real estate "in an orderly manner and as soon as practicable after they are acquired."

The general authority for Illinois state-chartered banks to acquire and hold title to real estate is found in Section 5 of the Illinois Banking Act, 205 ILCS 5/5 (1992). Section 5(8) permits a state bank to own real estate upon which the bank conducts its business, and Section 5(9) permits a state bank to own "other real estate" obtained in the collection of debts owed to the bank. Neither of those provisions authorizes Bank to purchase real estate from officers of Bank who are being transferred away from their present community. However, Section 5(11) provides the following additional authority to Illinois state banks:

(11)Notwithstanding any other provisions of this Act, to do any act and to own, possess and carry as assets property of the character...that is at the time authorized or permitted to national banks by an Act of Congress, but subject always to the same limitations and restrictions as are applicable to national banks by the pertinent federal law.

Section 5(11)'s grant of authority to state banks includes powers enjoyed by national banks pursuant to regulations issued by the federal Office of the Comptroller of the Currency ("OCC"). Town & Country Bank of Quincy v. E. & D. Bancshares, Inc., et al., 172 Ill. App. 3d 1066 (4th Dist. 1988).

National banks are authorized to purchase employees' residences in circumstances similar to those set forth in your letter. Interpretive Ruling 7.5230 issued by the OCC states as follows:

As a legitimate part of a program for the development and efficient utilization of bank personnel, a national bank may purchase the residence of an employee who has been transferred to another area, in order to spare him a loss in the prevailing market. The bank should arrange for early divestment of title to such property.

12 C.F.R. 7.5230, Fed. Banking L. Rep. (CCH) par. 60,887.

Pursuant to Section 5(11) of the Illinois Banking Act and OCC Interpretive Ruling 7.5230, we conclude that Bank may purchase the residences of its employees who are being transferred to other communities. Bank should make arrangements to divest its ownership of the acquired real estate at the earliest reasonable opportunity.