

Memo 1995-7 RE Appraisals for \$250,000 Transactions

To: All State Chartered Banks
Fr: Kevin C. Glendening, Assistant Deputy Commissioner
Dt: February 28, 1995 (Modified 10-98)

Re: Real Estate Appraisal Exemptions for transactions of \$250,000 or more

The Office of the State Bank Commissioner has determined that, under the following limited circumstances, real estate taken by the bank as collateral on a loan will generally be exempt from the requirements of K.A.R. 17-11-21. The exceptions to this policy are exemptions number (4) and (6) below which, irrespective of the amount in excess of \$25,000, will, at a minimum, require a written evaluation as described in the attached August 24, 1993 memorandum. Furthermore, an appraisal may be required in any real estate related transaction if it is determined to be necessary by the Commissioner to address safety and soundness concerns.

Qualifying Exemptions

1) Abundance of caution

Those instances where the bank adequately documents that real estate is taken as additional collateral for an extension of credit that is well supported by the borrower's income or collateral other than real estate.

2) Loans not secured by real estate

Primarily loans to acquire or invest in real estate if the bank does not take a security interest in real estate.

3) Liens for purposes other than real estate's value

Liens taken on real estate to protect rights to, or control over, collateral other than the real estate.

4) Real estate secured business loans of \$1 million or less

Business loans that do not depend on real estate sales or rental income, including from real estate other than that which the bank has a security interest in, as their primary source of repayment. (At a minimum written evaluation is required)

5) Leases

Real estate leases that are not the equivalent of the purchase or sale of real estate (operating lease) generally do not require an appraisal. Conversely, leases which are the economic equivalent of purchasing or selling real estate (capital lease) do generally require an appraisal.

6) Renewals, refinancing, and subsequent transactions

Subsequent transactions, even with the advancement of new funds, may not require a new appraisal provided there has been no material change in market conditions or physical condition of the property which affect the adequacy of the real estate collateral protection or validity of the existing appraisal; or, when the borrower's repayment history is sound and future repayment prospects are good, despite some market decline in the real estate provided no new monies are

advanced other than funds necessary to cover reasonable closing costs. (at a minimum written evaluation is required)

7) Transactions involving real estate notes

This exemption relates to secondary mortgage market transactions involving real estate loans. The exemption allows the use of appraisals which met regulatory guidelines at the time the loan was originated.

8) Transactions insured or guaranteed by a U.S. government (or government sponsored) agency

When the bank meets all appraisal requirements of the insuring or guaranteeing agency.

9) Transactions that meet qualifications for sale to the agencies identified in exception (8)

Banks may buy, sell, originate, or hold loans that meet all necessary qualifications (credit standards and appraisal requirements) for sale to these agencies, without obtaining an additional separate appraisal.

10) Transactions by banks as fiduciaries

Banks acting as fiduciaries in real estate related transactions are not required to obtain appraisals if no appraisal is required under law governing their activities in relation to the transaction.

These exemptions mirror those available under federal appraisal regulations. The above descriptions and attached table represent only a brief summary of the exemptions. Please contact our office if you have additional questions.

Type of Real Estate related transaction	Licensed / Certified Appraisal required	Evaluation / Appraisal required	No Evaluation or Appraisal required
\$250,000 or more	X		
Greater than \$15,000 less than \$250,000		X	
Abundance of caution			X
Not secured by RE			X
Protect other collateral			X
Bus. loan of \$1 million or less		X	
Capital lease	X		
Operating lease			X
Renewal - no new funds		X	
Renewal - new funds, no material change		X	
Renewal - new funds and material change	X		
Secondary mortgage market			X
Government agency guarantee			X
Qualify sale to government agency			X
Bank as fiduciary			X