

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

DIVISION OF BANKING, DEPT. OF GENERAL ADMINISTRATION

(agency name)

Administrative Order No. 66

(1) I, Thomas H. Oldfield, director of the Division of Banking, Department of General Administration, do promulgate and adopt at Olympia, Washington the annexed rules relating to:

Banks and trust companies, creating nine new sections, WAC 50-12-120, WAC 50-12-130, WAC 50-12-140, WAC 50-12-150, WAC 50-12-160, WAC 50-12-170, WAC 50-12-180, WAC 50-12-190 and WAC 50-12-200 concerning real estate investment/Community Reinvestment Act compliance.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 86-23-015 filed with the code reviser on 11/10/86. These rules shall take effect: [X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW 30.60 and RCW 30.04.212, RCW 30.04.214 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency) has authority to implement the provisions of (name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED December 23 19 86 STATE OF WASHINGTON FILED DEC 30 1986

By Thomas H. Oldfield, Supervisor Division of Banking Title

NEW SECTION

WAC 50-12-120 PROMULGATION. The division of banking, hereinafter referred to as the "division," after due and proper notice, and pursuant to chapter 30.60 RCW hereby adopts and promulgates the following rules and regulations, effective January 1, 1986.

NEW SECTION

WAC 50-12-130 PURPOSE. This regulation is intended to encourage banks chartered under Title 30 RCW to help meet the credit needs of their local community or communities; to provide guidance to banks as to how the division will assess the records of these banks in satisfying their continuing and affirmative obligations to help meet the credit needs of the local communities, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of those banks; and to provide for proper consideration of those records in connection with certain applications.

NEW SECTION

WAC 50-12-140 DEFINITIONS. For purposes of interpreting and administering the provisions and procedures contained herein, the definitions of terms used shall be identical to the corresponding definitions set forth in the Community Reinvestment Act of 1977, Public Law 95-128, sections 801-806, 12 USC 2901, et seq. and regulations promulgated pursuant thereto; provided, these definitions are not inconsistent with the context used, or otherwise defined, in this regulation.

The term "division" means the division of banking of the state of Washington. The term "supervisor" means the supervisor of banking.

NEW SECTION

WAC 50-12-150 ASSESSING THE RECORD OF PERFORMANCE. In connection with its examination of a bank, the division shall assess the record of performance of the bank in helping to meet the credit needs of its entire community, including low-income and moderate-income neighborhoods, consistent with safe and sound operation of the bank. The division will review the bank's Community Reinvestment Act statement(s) and any other written and signed reports, documents, or comments prepared or filed by the bank with the division, or one or more federal bank regulatory agencies, and will use this material as part of or in lieu of an investigation as set forth by RCW 30.60.010. The foregoing material, together with such additional information as may be deemed necessary and obtained by investigation performed by the division, will be considered in assessing the bank's record of performance, based upon the following factors:

- (1) Activities conducted by the institution to ascertain credit needs of its community, including the extent of the institution's efforts to communicate with members of its community regarding the credit services being provided by the institution;
- (2) The extent of the institution's marketing and special credit related programs to make members of the community aware of the credit services offered by the institution;

(3) The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act of 1977;

(4) Any practices intended to discourage applications for types of credit set forth in the institution's Community Reinvestment Act statement(s);

(5) The geographic distribution of the institution's credit extensions, credit applications and credit denials;

(6) Evidence of prohibited discriminatory or other illegal credit practices;

(7) The institution's record of opening and closing offices and providing services at offices;

(8) The institution's participation, including investments, in local community development projects;

(9) The institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community;

(10) The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms;

(11) The institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition, and other factors;

(12) Other factors that, in the judgment of the supervisor, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

NEW SECTION

WAC 50-12-160 RATING ASSIGNMENT. (1) Based upon the foregoing investigation and assessment, the supervisor shall annually assign to the bank a numerical community reinvestment rating based on a one through five scoring system in accordance with RCW 30.60.010. Such numerical scores shall represent performance assessments as follows:

(a) Excellent performance:	1
(b) Good performance:	2
(c) Satisfactory performance:	3
(d) Inadequate performance:	4
(e) Poor performance:	5

(2) For each calendar year commencing after December 31, 1986, the most recent community reinvestment rating assigned to the bank by the supervisor shall be used as a basis for limiting the funds invested in real property and improvements thereof pursuant to RCW 30.04.212. These investments shall be limited to a percentage of capital, surplus, and undivided profits, as follows:

(a) Excellent performance-rating (1):	10% limitation
(b) Good performance-rating (2):	8% limitation
(c) Satisfactory performance-rating (3):	6% limitation
(d) Inadequate performance-rating (4):	3% limitation
(e) Poor performance-rating (5):	no investment

No bank may at any time be required to dispose of any investment made in accordance with this section because the bank is not then authorized to acquire such investment, if such investment was lawfully acquired by the bank at the time of acquisition.

NEW SECTION

WAC 50-12-170 RATING FOR PERIOD JANUARY 1, 1986 THROUGH DECEMBER 31, 1986. For the period January 1, 1986 through December 31, 1986, the rating assigned to all state chartered banks shall be a "1"; provided, however, that if a bank has been assigned a CRA rating of 3 or less in the most recent compliance report prepared by the FDIC or the Federal Reserve, the division deems the ten percent limitation for this period to be excessive, and an unsafe and unsound banking practice, and the bank shall be allowed to invest only the amount which would be allowable pursuant to RCW 30.04.212 if the rating of the most recent compliance report of the FDIC or Federal Reserve were assigned to the bank for the period January 1, 1986 through December 31, 1986.

NEW SECTION

WAC 50-12-180 LIMITATION ON SINGLE INVESTMENT. The total investment by a bank in a single parcel of real property, and improvements thereon, shall not exceed twenty-five percent of the aggregate amount of such bank's real estate investments allowed by RCW 30.04.212.

NEW SECTION

WAC 50-12-190 INVESTMENT IN QUALIFYING COMMUNITY INVESTMENTS.

(1) An amount equal to ten percent of the aggregate amount invested in real estate by a bank pursuant to RCW 30.04.212 shall be placed in qualifying community investments as defined in subsection (3) of this section.

(2) A qualifying community investment made by an entity that wholly owns a bank, is wholly owned by a bank, or is wholly owned by an entity that wholly owns the bank, shall be deemed to have been made by a bank to satisfy the requirements of subsection (1) of this section.

(3) The term "qualifying community investment" means any direct or indirect investment or extension of credit made by a bank in projects or programs designed to develop or redevelop areas in which persons with low-incomes or moderate-incomes reside, designed to meet the credit needs of such low-income or moderate-income areas, or that primarily benefits low-income and moderate-income residents of such areas. The term includes, but is not limited to, any of the following investments within the state of Washington:

(a) Investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or business that address the needs of the low-income and moderate-income areas.

(b) Investments in residential mortgage loans, home improvement loans, housing rehabilitation loans, and small business or small farm loans originated in low-income and moderate-income areas, or the purchase of such loans originated in low-income and moderate-income areas.

(c) Investments for the preservation or revitalization of urban or rural communities in low-income and moderate-income areas.

The term does not include personal installment loans, or loans made for the purchase of, or secured by, an automobile.

NEW SECTION

WAC 50-12-200 CONSIDERATION OF PERFORMANCE RECORD IN MEETING COMMUNITY CREDIT NEEDS IN APPROVING AND DISAPPROVING APPLICATIONS. The division shall consider, among other factors, the record of performance of the applicant in helping to meet the credit needs of the applicant's entire community, including low-income and moderate-income neighborhoods in determining the approval or disapproval for the following applications:

- (1) For a new branch or satellite facility;
- (2) For a purchase of assets;
- (3) For a merger;
- (4) For an acquisition;
- (5) For authority to engage in a business activity;
- (6) For a conversion from a national bank to a state-chartered bank; and
- (7) Such other application as the supervisor may consider appropriate.

The performance record need not be considered for subsections (2), (3), and (4) of this section where solvency and safety soundness of the bank is threatened. Assessment of an institution's CRA performance may be a basis for denying an application.