

EXECUTIVE ORDER

Regulation of Real Estate Credit

DECLARATION OF NECESSITY AND PURPOSE

WHEREAS the prices of urban and rural real estate have been rising rapidly under the influence of circumstances resulting from the war, thereby encouraging speculative activity and unsound valuations and threatening the national program for economic stabilization authorized and directed by the Congress in the Act of October 2, 1942 (56 Stat. 765), as amended;

WHEREAS the volume of credit extended on the security of and to finance purchases of urban and rural real estate and the conditions under which such credit is available have an important influence on the demand for real estate and on the general level of real estate prices;

WHEREAS the extension of such credit augments or may augment the total volume of funds available to the public for the purchase of goods and services in general, of which supplies are limited in consequence of the war, and thereby contributes or may contribute to inflationary pressures upon the price level for goods and services in general and to a rising cost of living;

WHEREAS the public interest requires, as part of the national program for the maintenance of stable economic conditions, that the use of credit for financing and refinancing the purchase or carrying of urban and rural real estate be regulated in order to assist (a) in curbing an unwarranted and speculative increase in the general level of real estate prices, (b) in preventing evasion or avoidance of the existing governmental controls over rents, (c) in restraining general inflationary tendencies, by supplementing and supporting other governmental measures designed to restrain such tendencies, (d) in protecting and promoting the sound and constructive interests of agriculture, home owners, returning veterans and the public generally, and (e) in restraining the development of a real estate debt structure that may hamper readjustment in the post-war period; and

WHEREAS it is appropriate that such control should be exercised, subject to the general policy directives of the Economic Stabilization Director, through an existing governmental agency which has primary responsibilities with respect to the determination and administration of national credit policies;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the statutes of the United States, and particularly by section 5(b) of the act of October 6, 1917, as amended from time to time including the amendment made in the First War Powers Act, 1941, and in order, during the time of the war and during the period of the national emergency declared by the President on May 27, 1941, to promote the effective conduct of the war and to protect the national economy, it is hereby ordered as follows:

DESIGNATION OF BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

Section 1.(a) To carry out the purposes of this order, the Board of Governors of the Federal Reserve System (hereinafter called the Board) is hereby designated as the agency through which there shall be investigated, regulated, or prohibited transfers of credit or payments between, by, through, or to any banking institution, or institutions which constitute or arise directly or indirectly out of any extension or use of credit for or incidental to buying, acquiring an interest in or control of, carrying, holding, or trading in real estate, whether urban or rural, or evidences of ownership thereof or interests therein.

(b) In effectuating the purposes and the provisions of this order, the Board shall have the powers set forth in paragraph 1 of subdivision (b) of section 5 of the said act of October 6, 1917, as amended, and may also utilize all other powers vested in it. Nothing herein shall be construed to amend, supersede, or repeal any powers heretofore assigned to the Board or to any other agency under the aforesaid paragraph 1 of section 5 (b) of said act of October 6, 1917, as amended, except that to the extent of any inconsistency between this order and any power heretofore assigned to any other agency the provisions of this order shall govern.

(c) In exercising the powers conferred by this order the Board shall be governed by the general policy directives of the Economic Stabilisation Director. In promulgating regulations importantly affecting the operation of any other Federal agency which has responsibilities in the real estate field the Board shall, so far as practicable, consult with such agency prior to issuance of such regulations.

REGULATIONS

Section 2. (a) The Board shall prescribe such regulations as it deems necessary or appropriate governing transfers and payments (as hereinafter defined) which constitute, or arise directly or indirectly out of any extension or use of credit for or incidental to buying, acquiring an interest in or control of, carrying, holding or trading in real estate, either urban or rural or both as the Board may determine, or evidences of ownership thereof or interests therein. Such regulations shall remain in effect during such periods as the Board shall deem to be in accordance with the purposes of this order.

(b) Such regulations may from time to time, originally or by amendment, regulate or prohibit such transfers and payments, or exempt them from regulation or prohibition, and may classify them according to the nature of the transactions or real estate or persons involved or upon such other basis as may reasonably differentiate such transfers and payments for the purposes of regulations under this order, and may be made applicable to one or more of the classes so established; and, without limiting the generality of the foregoing, such regulations may require transactions or persons or classes thereof to be registered or licensed; may prescribe appropriate limitations, terms, and conditions for such registrations or licenses; may provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, instruction, or order prescribed hereunder; may prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents; may prohibit solicitations by banking institutions which would encourage evasion or avoidance of the requirements of any regulation, license, or registration

under this order; and may from time to time make such provision as the Board deems appropriate with respect to--

(1) The amount of credit which may be extended on or in connection with purchasing, acquiring an interest in or control of, carrying, holding or trading in urban or rural real estate, or evidences of ownership thereof or interests therein;

(2) The maturity and rate of liquidation which may be stipulated in connection with any such extension of credit;

(3) The methods for determining maturities, computing the amounts of extensions of credit, and determining the prices and values upon which such computations can be made; and

(4) Special or different terms, conditions, or exemptions with respect to temporary credits which are merely incidental to cash purchases, payments or deposits usable to liquidate credit, and other adjustments or special situations.

(c) On and after the effective date of any regulations prescribed by the Board under this order, and notwithstanding the provisions of any other proclamation, order, regulation, or license under the aforesaid Act of October 6, 1917, as amended, no banking institution, except as permitted by the regulation, shall make, receive, or participate in any transfer or payment which arises, directly or indirectly, out of an extension of credit subject to such regulation; and no person making such an extension of credit or holding such an extension of credit which is subject to such regulation, and no person to whom such an extension of credit is made, shall, as a means of accomplishing the transaction, make, receive, or cause to be made or received, any transfer of credit or payment by, through, or to any banking institution except as permitted by the regulation.

(d) After the effective date of any such regulation every contract extending credit which is subject thereto and which violates, or the performance of which would violate, any provision of such regulation, and every lien, pledge, or other property interest, securing such contract or created in connection therewith, shall be unenforceable by the person who extends such

credit or by any person who acquires any right of such person in such contracts: Provided, That such disability shall not be applicable where otherwise provided by the Board in its regulations in order to effectuate the purposes of this order.

REPORTS

Section 3. The Board may require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any acts or transactions referred to in this order either before, during, or after the completion thereof, or as may be otherwise deemed by the Board necessary to administer or enforce the provisions of this order; and in any case in which a report can be required the Board may, when necessary in its judgment for the effective administration of this order, require the production of, and may inspect any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person.

ADMINISTRATION

Section 4. In administering this order, the Board may utilize the information and services of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the National Housing Agency, the Farm Credit Administration, and any other agencies, Federal or State, which are available and appropriate. The Board may request any such agency to administer or participate in the administration of any of the Board's orders or regulations issued hereunder, and any Federal agency shall be governed by any directive which the Economic Stabilization Director may issue with respect to such agency's participation therein. The Board may also employ the facilities and services of the Federal Reserve Banks in administering this order.

DEFINITIONS

Section 5. For the purposes of this order, unless the context otherwise requires, the following terms shall have the following meanings: Provided, That the Board may in its regulations give such terms more restricted meanings:

(a) "Person" means any individual, partnership, association, business trust or corporation, or any federal, state or other governmental agency.

(b) "Transfers and payments" means transfers of credit or payments between, by, through, or to any banking institution or institutions.

(c) "Banking institution" means any person, as above defined, who or which is engaged, directly or indirectly, either primarily or incidentally, as principal, agent, broker or otherwise in the business of transferring credits or in receiving deposits or in making, receiving, holding, arranging or clearing extensions of credit or payments which constitute or arise out of extensions of credit.

(d) "Extension of credit" means any loan, advance, or discount; the acceptance of any mortgage, deed of trust or similar instrument or obligation; any conditional sale contract; any sale or contract of sale, either for present or future delivery, under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the leasing of property under which the lessee either has the option of becoming the owner thereof or obligates himself to pay as compensation a sum substantially equal to or in excess of the value thereof; any option, demand, lien, pledge or similar claim against, or for the delivery of, property or money; any purchase, discount, or other acquisition of, or any extension of credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

The Board is authorized to prescribe definitions, not inconsistent with this order, of any terms, other than those above listed, which it may use in its directives, orders or regulations issued pursuant to this order.

PENALTIES

Section 6. Whoever willfully violates or knowingly participates in the violation of this order or of any regulation prescribed hereunder, shall be subject to the penalties applicable with respect to violations of section 5 (b) of the said Act of October 6, 1917, as amended.