

Committee Opinion
September 9, 1988

LEGAL ETHICS OPINION 1120

REAL ESTATE: LENDER APPROVAL
OF BORROWER'S CLOSING
ATTORNEY.

You have advised that you are involved in a real estate transaction in which the bank, through the loan commitment, reserves the right to approve the borrower's closing attorney as well as obtain legal counsel on its behalf at the borrower's expense.

You feel that this provision in the commitment goes beyond the bank's mere recommendation of a closing attorney, in that the bank may be directing the attorney who shall be used since the borrower may be faced with the additional expense of the bank's attorneys' fees.

The Committee believes that the bank, like an individual, has the right to secure legal counsel of its choice to protect its interest as well as the interest of its shareholders and customers. The question you have presented concerning the legality of a lending institution's policy with regard to complex real estate closings is not within the purview of the Standing Committee on Legal Ethics. Thereby, the Committee will have to respectfully decline to render an opinion.

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