STATE OF COLORADO

Department of Regulatory Agencies

M. Michael Cooke Executive Director



DIVISION OF BANKING

Richard Fulkerson State Bank Commissioner

MEMORANDUM

TO: COMMERCIAL AND INDUSTRIAL BANKERS

FROM: BARBARA M.A. WALKER, STATE BANK COMMISSIONER

DATE: SEPTEMBER 30, 1991

RE: REGULATORY CONCERNS RELATING TO THE PURCHASE OF TAX LIEN

CERTIFICATES

On September 24, 1991, the State Banking Board promulgated emergency rules which allow commercial and industrial banks to invest in tax lien certificates provided prior Banking Board approval is received and several stringent conditions and limitations are met. These conditions and limitations are designed to limit the potential risk of such investments and to provide a safe and sound investment alternative for state chartered banks.

In the past, federal regulators have expressed concerns that tax lien certificates were not a safe and sound investment. The rule has been drafted with the intent to address those concerns. The due diligence requirements and limitations in the rule will ensure that a bank, to the best of its ability, will:

- know the current market appraisal of the real property;
- know the type of real property (only 1-4 single family, occupied residences or undeveloped lots in established subdivisions are allowed);
- know who the owners are;
- know the condition of the property, and whether there are conditions which will decrease the appraised value and the potential for resale; and
- know if additional expenditures of funds will be required as a result of clean-up of toxic substances, etc. (deeds cannot be taken on such properties).

Moreover, the amount which can be invested in tax lien certificates is strictly limited, and only strong institutions may make such investments.

A prudent approach to investment in tax lien certificates with adequate management expertise will be needed to address safety and soundness concerns which federal regulators may have.