Wisconsin Mortgage Banking Act No Longer Applies to Commercial Mortgage Loans

Until fairly recently, one of the more difficult problems facing out-of-state lenders making a loan secured by a mortgage on Wisconsin real property involved determining their registration and compliance obligations under the Wisconsin Mortgage Banking Act (the WMBA) as set forth in Chapter 224 of the Wisconsin Statutes. Prior to the adoption of an amendment to the WMBA in 2008, the WMBA was drafted in such a way that it seemingly applied to both residential and commercial loans secured by a mortgage on real property. As originally drafted, therefore, the WMBA caused numerous headaches for out-of-state lenders who had to determine whether they had become subject to the WMBA's registration and compliance requirements simply by accepting a mortgage on commercial property in Wisconsin.

Fortunately, the WMBA was amended in 2008 to clarify that it only applies to loans for personal, family or household purposes that are secured by a lien or mortgage, or equivalent security interest, on residential real property located in Wisconsin. As a result, it is now clear that the WMBA does not apply to loans that are secured by mortgages on commercial real property in Wisconsin.

To that end, a prudent lender's Wisconsin counsel should confirm that legal opinions no longer assume away compliance with the WMBA or similarly qualify opinions regarding such compliance.

If you have questions about this update, please contact your Reinhart attorney, John Murphy, Nathan Wautier or any member of the Reinhart Real Estate Opinion Team.

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