Employer and compliance with the 15% of Plan assets maximum loan amount, prior to approving the disbursement under the Loan agreement;

(6) The fiduciary is monitoring the Past Loan to ensure compliance with the terms and conditions of the exemption and the Loan agreement;

(7) The Plan suffers no loss as a result of the Past Loan; and

(8) The Past Loan will be fully repaid by May 31, 1995.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 7, 1995 at 60 FR 17821.

**TEMPORARY NATURE OF EXEMPTION:** This exemption is effective for the period from July 12, 1994 through May 31, 1995, the date by which the Past Loan will be repaid.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

## Washington Mortgage Corporation, Inc. (WMC) Located in Seattle, Washington; Exemption

[Prohibited Transaction Exemption 95–42; Exemption Application No. D–09814]

- I. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A)through (D) of the Code, shall not apply to: 1) the sale, exchange or transfer between WMC and its affiliates and certain employee benefit plans (the Plans) of certain construction loans or participation interests therein to nonparty in interest entities; and 2) the sale, exchange or transfer between WMC and its affiliates and the Plans of any construction or permanent loan made by a Plan to a party in interest, and the resulting extension of credit therefrom, provided that:
- (a) The terms of the transactions are not less favorable to the Plans than the terms generally available in arm's-length transactions between unrelated parties;
- (b) Such sales, exchanges or transfers are expressly approved by a Plan fiduciary independent of WMC and its affiliates who has authority to manage or control those Plan assets being invested in mortgages or participation interests therein;
- (c) No investment management, advisory, underwriting fee or sales commission or similar compensation is paid to WMC or any of its affiliates with regard to such sale, exchange or transfer;
- (d) The decision to invest in a loan or a participation interest therein is not

part of an arrangement under which a fiduciary of a Plan, acting with the knowledge of WMC or its affiliate, causes a transaction to be made with or for the benefit of a party in interest (as defined in section 3(14) of the Act) with respect to the Plan:

(e) At the time of its acquisition of a loan or participation interest therein, no Plan will have more than 25% of its assets invested in construction and

permanent mortgages;

(f) WMC and its affiliates do not and will not act as fiduciaries with regard to any Plan investing in permanent and construction loans and interests therein as described in this exemption; and

- (g) WMC shall maintain or will cause to be maintained, for the duration of any loan or participation interest therein sold to a Plan pursuant to this exemption, such records as are necessary to determine whether the conditions of this exemption have been met. The records mentioned above must be unconditionally available at their customary location for examination for purposes reasonably related to protecting rights under the Plans, during normal business hours, by: Any trustee, investment manager, employer of Plan participants, employee organization whose members are covered by a Plan, participant or beneficiary of a Plan.
- II. The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975 (c)(1)(A) through (D) of the Code shall not apply to any transactions to which such restrictions would otherwise apply merely because WMC or any of its affiliates is deemed to be a party in interest with respect to a Plan by virtue of providing services to the Plan in connection with the subject loan transactions (or because it has a relationship to such service provider described in section 3(14)(F), (G), (H), or (I) of the Act), solely because of the ownership of a loan or participation interest therein as described in this exemption by such Plan.

III. Definitions. For purposes of this exemption,

- (a) An "affiliate" of WMC includes— (1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with WMC,
- (2) Any officer, director, employee, relative of, or partner in any such person, and
- (3) Any corporation or partnership of which such person is an officer, director, partner or employee.
- (b) The term "control" means the power to exercise a controlling influence over the management or

policies of a person other than an individual.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 7, 1995 at 59 FR 38205.

**TEMPORARY NATURE OF EXEMPTION:** This exemption is effective only for those transactions entered into within eight years of the date on which the Final Grant of this exemption is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

## Welborn Clinic Employees' Retirement Plan (the Plan) Located in Evansville, Indiana; Exemption

[Prohibited Transaction Exemption 95–43; Exemption Application No. D–09890]

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan of certain improved real property (the Property) located in Evansville, Indiana, to WANC Leasing Company, a party in interest with respect to the Plan; provided the following conditions are satisfied:

(A) All terms and conditions of the transaction are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Plan receives a cash purchase price of no less than the greater of (1) \$8,555,000, or (2) the Property's fair market value as of the sale date; and

(C) The Plan does not incur any expenses with respect to the transaction.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on March 13, 1995 at 60 FR 13473.

written comments: The Department received one written comment, submitted by a Plan participant, and no requests for a hearing. The Department forwarded the comment to the applicant, the Citizens National Bank of Evansville as trustee of the Plan (the Trustee), for responses to the points raised therein. The points raised by the comment, and the Trustee's responses, are summarized as follows:

(1) The commenter states that improvements have been made to the Property since December 31, 1993, the date of one of the two appraisals utilized by the parties to determine the