

Chapter S-L 18

MORTGAGE LOANS

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Note: Chapter S-L 18 as it existed on June 30, 1976 was repealed and a new chapter S-L 18 was created effective July 1, 1976.

**S-L 18.01 Definitions.** In this chapter:

(1) **APPROVED LENDER.** "Approved lender" means any one of the following:

- (a) A savings and loan association chartered by this state.
- (b) An insured institution.
- (c) An agency or instrumentality of the federal government or of this state or a political subdivision of this state.
- (d) An approved federal housing administration mortgagee.
- (e) A service corporation in which the majority of capital stock is owned by one or more insured institutions.
- (f) An insurance company licensed to do business in this state.

(2) **"Builder's lot"** means a lot suitable for construction of a dwelling unit and purchased by a builder for the construction of one or more dwelling units thereon.

(3) **CODE.** "Code" means the Wisconsin Administrative Code.

(4) **COMBINATION-HOME-AND-BUSINESS-TYPE PROPERTY.** "Combination-home-and-business-type property" means a structure containing residential quarters and incidental commercial quarters, and the land incidental to its use, but does not include farms.

(5) **COMMERCIAL-TYPE PROPERTY.** "Commercial-type property" means:

- (a) Improved real estate used primarily for commercial purposes.
- (b) Real estate upon which is located a church, school, hospital, hotel or motel.
- (c) Structures and land used in connection with a farm operated for profit.

- (d) Land used in connection with a farm operated for profit.
- (6) COMMISSIONER. "Commissioner" means the commissioner of savings and loan or his authorized representative.
- (7) DEVELOPMENT LOAN. "Development loan" means a loan made on the security of a builder's lot or subdivision property.
- (8) DIRECT REDUCTION LOAN. "Direct reduction loan" means a mortgage loan which the borrower is required to repay in monthly payments of interest and principal unless otherwise provided in S-L 18.07 (1) (c), and may be evidenced by a single mortgage note written for the full term of the loan or a series of renewable mortgage notes.
- (9) DWELLING UNIT. "Dwelling unit" means a single unified combination of rooms designed for residential use by one family.
- (10) HOME-TYPE PROPERTY. "Home-type property" means a structure used only for residential purposes, together with the land incidental to its use, and includes property used as a dormitory, nursing home or home for the aging.
- (11) INSURED INSTITUTION. "Insured institution" means an institution insured by the federal savings and loan insurance corporation, the federal deposit insurance corporation or other insuring body approved by the commissioner.
- (12) MORTGAGE INSURANCE. "Mortgage insurance" means a policy of insurance indemnifying a lender in whole or in part against losses resulting from a borrower's failure to make contractual payments as specified in a mortgage note.
- (13) NORMAL LENDING AREA. "Normal lending area" means that area within a 100 mile radial distance from an office of the association originating a loan.
- (14) PARTICIPATING INTEREST. "Participating interest" means a mortgagee's interest in a participation loan.
- (15) PARTICIPATION ORIGINATOR. "Participation originator" means a person dividing a loan into participating interests for sale to others.
- (16) PARTICIPATION LOAN. "Participation loan" means a mortgage loan evidenced by a note in which the purchaser owns an interest of less than 100%.
- (17) PERSONAL LOT. "Personal lot" means a vacant lot suitable for the construction of a dwelling unit and purchased by an individual as a site for a personal residence.
- (18) STATUTES. "Statutes" mean the Wisconsin Statutes.
- (19) STRAIGHT LOAN. "Straight loan" means any mortgage loan which is not a direct reduction loan made in accordance with S-L 18.07 (1).
- (20) SUBDIVISION PROPERTY. "Subdivision property" means a tract of land that is being developed into lots for primarily residential purposes.
- (21) VACANT LAND. "Vacant land" means any land which is not a personal lot, a builder's lot, subdivision property, home-type property, combination-home-and-business-type property or commercial-type property.

(22) **VALUE.** With reference to real estate securing a mortgage loan, "value" means the reasonable market value of the property as appraised under S-L 18.23.

(23) **WHOLE LOAN.** "Whole loan" means a mortgage loan evidenced by a note in which the association owns or acquires a 100% interest.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; r. and recr. (2), (16), (19) and (20), Register, May, 1978, No. 269, eff. 6-1-78; r. (20), renum. (7) to (19) to be (8) to (20), cr. (7), Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.03 Purpose and scope.** (1) **ADDITIONAL JUDGMENT REQUIRED.** This chapter establishes minimum requirements governing mortgage loans. Circumstances surrounding a particular loan may demand an association to adhere to more stringent standards than the minimum requirements prescribed. The minimum requirements of this chapter are not a substitute for additional business judgment by an association. The commissioner may require that corrective action be taken when he determines that an association's lending practices or procedures are imprudent, even though individual loans may comply with this chapter.

(2) **LIMITED APPLICABILITY.** This chapter does not apply to loans that may be made without security but for which an association obtains the additional security of a real estate mortgage. The requirements and restrictions on real estate used as security for a mortgage loan do not apply to property obtained as additional security for a loan made in accordance with this chapter.

(3) **CH. 219 INVESTMENTS EXEMPT.** The requirements, limitations and restrictions contained in this chapter do not apply to any loan, advance of credit or investment, which is authorized under ch. 219 of the statutes.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.05 Maximum loan to value ratios.** (1) **CALCULATION.** When calculating loan to value ratios under this section, the value of the qualifying real estate security is limited to that attributable to the real estate if used in a manner consistent with the category under which the loan is made.

(2) **GENERAL LIMITATIONS.** Except as provided in subsection (3):

(a) *Home-type property.* A loan made on the security of home-type property may not exceed 80% of the value of the real estate security.

(b) *Combination-home-and-business-type property.* A direct reduction loan made on the security of combination-home-and-business-type property may not exceed 80% of the value of the real estate security. A straight loan secured by combination-home-and-business-type property may not exceed 75% of the value of the real estate security.

(c) *Commercial-type property.* A direct reduction loan made on the security of commercial-type property may not exceed 75% of the value of the real estate security. A straight loan secured by commercial-type property may not exceed 65% of the value of the real estate security.

(d) *Builder's lot.* A loan made on the security of a builder's lot or subdivision property may not exceed 75% of the value of the real estate security.

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(e) *Personal lot.* A direct reduction loan made on the security of a personal lot may not exceed 80% of the value of the real estate security. A straight loan secured by a personal lot may not exceed 75% of the value of the lot.

(3) **EXCEPTIONS: LOANS TO 100% OF VALUE.** An association may make a loan in an amount up to 100% of the value of the real estate security if:

(a) *Loans with mortgage insurance.* That portion of the loan exceeding the maximum amount permitted under subsection (2) is fully covered by mortgage insurance or is fully secured by a combination of mortgage insurance and additional collateral provided under paragraph (c).

(b) *Government-backed loans.* 1. An agency of the federal government or of this state or a political subdivision of this state has made a written commitment to indemnify the association for at least 90% of any loss the association may incur on the loan, and the association has a reasonable basis to believe that any conditions upon which the commitment is based will be met; or

2. An agency of the federal government or of this state or a political subdivision of this state has made a written commitment to purchase the loan or the property securing the loan, and the association has a reasonable basis to believe that any conditions upon which the commitment is based will be met; or

3. An agency of the federal government or of this state or a political subdivision of this state has made a written commitment to refinance the full amount of the loan within one year after the loan is made, and the association has a reasonable basis to believe that any conditions upon which the commitment is based will be met; or

4. The loan is made in conjunction with a government subsidy, insurance or guarantee program approved by the commissioner.

(c) *Loans secured by additional collateral.* 1. That portion of the loan exceeding the maximum amount otherwise applicable under this section is fully secured by: the cash surrender value of an insurance policy on the life of any person responsible for payment of the mortgage note; negotiable securities the principal and interest of which is guaranteed by the U.S. government; bonds, notes or other evidences of indebtedness, constituting the general obligation of a municipality as defined in s. 67.01 (1) of the statutes; or savings accounts or certificates of deposit, in an insured institution; and

2. The borrower, the owner of the collateral and the association entered into a collateral trust agreement; and

3. The mortgage note recites that the loan is further secured by a collateral trust agreement.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2) (d) and (3) (Intro.) and (a), Register, May, 1978, No. 269, eff. 6-1-78; r. and recr. (2) (d), r. (2) (e), renum. (2) (f) to be (2) (e), Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.06 Additional limitations on mortgage loans not secured by first liens.** (1) **DEFINITIONS.** In this section:

(a) "First lien" includes any mortgage the priority of which is insured over any other lien or encumbrance by a title insurance policy issued to the mortgage lender.

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(b) "Interim loan" means a loan that has an initial term of 6 months or less and is:

1. Secured by a mortgage on single family home-type property used as the borrower's primary residence; and

2. Made to provide temporary additional financing while the borrower is purchasing or constructing a new principle residence and is in the processing of selling his or her current residence.

(2) **GENERAL LIMITATION.** Except as provided in subsection (3), if the mortgage taken as security for a mortgage loan is not a first lien, the loan proceeds disbursed by the association may not exceed:

(a) The maximum amount that the association would be authorized to lend on the security of a first lien on the mortgaged property; minus

(b) The face amount of all other outstanding loans secured by the mortgaged property and any other unsatisfied liens against that property.

(3) **EXCEPTION FOR INTERIM LOANS.** In the case of an interim loan an association may disburse the amount authorized under sub. (2) plus the difference between the face amount of all outstanding loans secured by the mortgaged property and the current balance of those loans.

**History:** Cr. Register, May, 1978, No. 269, eff. 6-1-78.

**S-L 18.07 Direct reduction loans; maximum term and related provisions.** Subject to such additional limitations as may apply to particular loans:

(1) **GENERALLY** (a) *Term.* The term of a direct reduction loan may not exceed 30 years commencing with:

1. The date of the first contractual monthly principal and interest payment;

2. The date of any additional advance;

3. The date of any properly executed loan modification agreement; or

4. The date of any interest rate increase under the term of a note governed by s. 138.053 or 138.055 of the statutes.

(b) *Amortization.* Except as may otherwise be provided under sub. (2): 1. The rate of amortization on a direct reduction loan may vary during the term of the loan, and may result in a lump sum payment at maturity. Except as provided in subdiv. 2, required principal payments may not at any time during the term of the loan be based upon an amortization period exceeding the maximum term permitted under par. (a).

2. If the rate of interest charged on a mortgage loan is increased under the terms of a note governed by s. 138.053 or 138.055 of the statutes, an association may at the written request of the borrower, base required monthly principal payments on an amortization period of 40 years commencing with the effective date of the increase, provided that the term of the loan does not exceed that permitted under par. (a).

(2) **EXCEPTION FOR GRADUATED PAYMENT MORTGAGES.** An association may permit a borrower to make payments less than those required

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under sub. (1) (b) if the loan is made in accordance with this subsection.

(a) *Qualifying security.* The loan must be made on the security of a mortgage on one or 2 family home-type property purchased or constructed with the proceeds of the loan and occupied by the borrower as a primary residence.

(b) *Loan to value ratio.* At no time during the life of the loan may the loan to value ratio of the outstanding balance of the loan to the original appraised value of the qualifying real estate security exceed the applicable loan to value ratio under section S-L 18.05 (2) or (3) of the code.

(c) *Scheduled adjustments.* The mortgage note must provide for scheduled adjustments to the required monthly principal and interest payment. No later than the beginning of the 11th year of the loan that payment must reach and remain at a level sufficient to evenly amortize the remaining balance of the loan over its then remaining term. However, a scheduled adjustment may not:

1. Occur more than once a year; or
2. Cause the required monthly principal and interest payment to exceed that charged during the preceeding year by more than 10%.

(d) *Other adjustments.* Except for adjustments that may result from the borrower's failure to make complete or timely payments, the mortgage note may not provide for any increase in interest rate before the required monthly principal and interest payment has reached a level sufficient to evenly amortize the remaining balance of the loan over its then remaining term.

(e) *Reversion to conventional direct reduction loan.* The mortgage note must provide that the required principal and interest payment will be increased to a level that is at least sufficient to evenly amortize the remaining balance of the loan over its then remaining term, if the mortgaged premises are no longer occupied as the primary residence of the borrower or:

1. A member of the borrower's immediate family, in the event of the borrower's death; or
2. The borrower's spouse or former spouse, in the event of the borrower's divorce or separation.

(f) *Additional disclosure.* In addition to making all other required disclosures, the association must, prior to consummation of the loan, furnish the borrower with a written statement clearly identifying the dates and amounts of scheduled increases in the required monthly principal and interest payment.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; cr. (1) (b) (intro.), r. (1) (e), renum. (2) to be S-L 18.08, cr. (2), Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.08 Straight loans; maximum term and related provisions.**

(1) **TERM.** The term of a straight loan may not exceed 5 years from the date of the mortgage note. However, the term may be extended for periods of 2 years or less in accordance with paragraph (b) [sub. (2)].

(2) **EXTENSIONS.** A loan subject to this subsection may be extended only if:

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- (a) The borrower makes a request to the association for an extension;
- (b) All taxes on the property and all contractual payments on the loan are current; and
- (c) The borrower and the association execute a written extension agreement.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; renum. from S-L 18.07 (2) and am., Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.09 Portfolio limitations on certain loans.** A given loan may fall within one or more of the categories below. When calculating limitations under this section, a loan to which more than one category applies must be included as part of each applicable category. Participating interests sold under section S-L 18.19 of the code are not included when calculating limitations under this section.

(1) **STRAIGHT LOANS.** (a) *Limitation.* The aggregate of an association's straight loans may not exceed 10% of the association's total assets.

(b) *Calculation.* When calculating the limitation under this subsection, the following are excluded:

1. Straight loans backed by a government agency in the manner described in section S-L 18.05 (3) (b).

2. Straight loans secured by single family owner occupied home-type property, if the amount of the loan does not exceed 60% of the appraised value of such security.

(2) **LOANS SECURED BY COMMERCIAL-TYPE PROPERTY.** The aggregate of an association's mortgage loans secured by commercial-type property may not exceed 18% of the association's total assets.

(3) **PARTICIPATION LOANS.** The aggregate of an association's participation loans purchased from other lenders may not exceed 40% of the association's total assets. This subsection does not apply to any loan that is government insured or guaranteed.

(4) **LOANS OUTSIDE THE ASSOCIATION'S NORMAL LENDING AREA.** The aggregate of an association's loans secured by real estate located outside the association's normal lending area, excluding participating interests purchased under section S-L 18.19 of the code, may not exceed 10% of the association's total assets.

(5) **DEVELOPMENT LOANS.** The aggregate of an association's development loans may not exceed 50% of the association's net worth.

(6) **PERSONAL LOT LOANS.** The aggregate of an association's loans secured by personal lots may not exceed 50% of an association's net worth.

(7) **LOANS IN EXCESS OF \$400,000.** (a) *Limitation.* Loans with unpaid balances in excess of \$400,000 may not exceed 20% of an association's total assets.

(b) *Certain participation loans exempt.* This subsection does not apply to participation loans in which an association purchases or retains a participating interest of \$400,000 or less.

(8) **LOANS TO ONE BORROWER.** (a) *Aggregate loans.* 1. The aggregate of an association's loans to any one borrower, excluding loans backed by a

government agency in the manner described in section S-L 18.05 (3) (b) of the code, may not exceed the net worth of the association or 5% of the association's total assets, whichever is less.

2. The aggregate of loans to any one borrower in any loan type described in subsections (1) to (8) may not exceed 50% of the category limitation prescribed in the applicable subsection.

(b) *Single or related loans.* No single loan, or group of related loans, to one borrower may exceed 50% of the association's net worth.

(c) *Calculation.* For purposes of this subsection, the unpaid balance of a loan shall be deemed to remain a loan to the original borrower, unless that borrower conveys title to the mortgaged property to another person who assumes the payment of the mortgage, and the association relieves the original borrower of liability for repayment of the loan.

*History:* Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (8) (a), r. (8) (b) and renum. (8) (c) to be (8) (b), Register, May, 1978, No. 269, eff. 6-1-78; r. and recr. (5), r. (6), renum. (7) to (9) to be (6) to (8), Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.11 Construction lending.** (1) **PRACTICES AND PROCEDURES.** Construction lending practices and procedures shall be appropriate for the size of the loan and the type of property to be constructed or developed.

(2) **AUTHORIZATION REQUIRED BEFORE DISBURSEMENTS TO THIRD PARTIES.** When the proceeds of a mortgage loan or funds deposited with an association by a borrower are to be used to pay costs incurred in the construction or improvement of a structure or the improvement of real estate, the association may not disburse such proceeds or funds to any contractor, subcontractor, materialman or other third party, unless the disbursement has been authorized in writing by the borrower or his authorized agent.

*History:* Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.13 Bullder's lot loans.** *History:* Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (1), Register, May, 1978, No. 269, eff. 6-1-78; r. Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.14 Development loans.** (1) **MAXIMUM TERM.** The term of a development loan may not exceed 5 years, but may be extended for periods of one year or less in the manner provided in section S-L 18.07 (2) (b) [S-L 18.08 (2)] of the code.

(2) **APPRAISALS AND OTHER DOCUMENTATION.** Before making a development loan an association must obtain:

(a) An appraisal made in accordance with s. S-L 18.23 of the code.

(b) A statement from the borrower indicating the borrower's intended use of the property. If further improvements must be made to the land to make it suitable for the construction of a dwelling unit and loan proceeds are expected to be used in that development, the statement must include:

1. A development schedule.
2. The estimated cost of those improvements.

(3) **RELEASE SCHEDULE.** When a development loan is secured by more than one lot:

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(a) The association and the borrower must enter into a written agreement governing the release of individual lots from the association's security interest.

(b) No portion of the qualifying real estate security may be released unless:

1. The association has obtained an appraisal that individually sets forth the value of each developed lot and of any qualifying security remaining to be developed; and

2. The ratio of the unpaid balance of the association's loan to the value of the remaining real estate security will not exceed the applicable maximum loan to value ratio under section S-L 18.05 of the code.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.15 Subdivision loans.** **History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; r. Register, June, 1979, No. 282, eff. 7-1-79.

**S-L 18.17 Personal lot loans.** (1) **MAXIMUM TERM.** The total of the original term and any extensions or renewals of a loan secured by a personal lot may not exceed 10 years.

(2) **ONE LOT LOAN PER BORROWER.** No loan secured by a personal lot may be made while the borrower has an outstanding loan secured by a personal lot.

(3) **ADDITIONAL DOCUMENTATION REQUIRED.** Before making a loan secured by a personal lot, an association shall require the applicant to execute an affidavit indicating:

(a) That the applicant intends to use the mortgaged property as a site for the construction of home-type property to be used by the applicant as a place of residence;

(b) That when the loan is made the applicant will have no other outstanding loan secured by a personal lot; and

(c) The cost of the real estate security to the applicant, together with the cost of any subsequent improvements to the real estate security.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.19 Participation loans.** (1) **AUTHORIZATION.** (a) *Purchase.* Except as provided in subsection (2), an association may purchase from an approved lender a participating interest in any loan secured by real estate located within the United States.

(b) *Sale.* An association may sell a participating interest to any purchaser. The sale of a participating interest by an association chartered by this state shall be without recourse.

(2) **EXCEPTION.** An association may not make or purchase a participation loan secured by subdivision property, a builder's lot or a personal lot, located outside its normal lending area.

(3) **APPLICABILITY OF OTHER STATUTORY AND CODE PROVISIONS.** Except as otherwise specifically provided in this section, participating interests purchased by an association chartered by this state are subject to the same standards, requirements and restrictions applying to loans made directly by the purchasing association.

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(4) **LOAN DOCUMENTATION.** Each participation loan shall be evidenced by an agreement executed by the participation originator and purchaser and identifying the security. The loan file shall contain documentation sufficient for the purchaser to make a reasonable judgment as to the quality of the loan.

*History:* Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.21 Whole loans outside an association's normal lending area.** (1) **AUTHORIZATION.** Except as provided in subsection (2), an association may:

(a) Make a whole loan secured by real estate located outside its normal lending area, provided:

1. The association is an approved federal housing administration mortgagee or its accounts are insured by the federal savings and loan insurance corporation; and

2. The loan is serviced by the association or by another institution which is an approved federal housing administration mortgagee or has its accounts insured by the federal savings and loan insurance corporation or the federal deposit insurance corporation.

(b) Purchase a whole loan secured by real estate located outside its normal lending area, provided;

1. The loan was originated by or through an approved federal housing administration mortgagee or an institution having its accounts insured by the federal savings and loan insurance corporation or federal deposit insurance corporation; and

2. The loan is serviced by or through an approved federal housing administration mortgagee or an institution having its accounts insured by the federal savings and loan insurance corporation or federal deposit insurance corporation. If the purchasing association is an approved federal housing administration mortgagee or is insured by the federal savings and loan insurance corporation, it may service the loan in its own right.

(2) **EXCEPTIONS.** An association may not make or purchase a whole loan made on the security of subdivision property, a builder's lot, or a personal lot, located outside its normal lending area.

(3) **APPLICABILITY OF OTHER STATUTORY AND CODE PROVISIONS.** Except as otherwise specifically provided in this section, loans made or purchased by an association chartered by this state are subject to the same standards, requirements and restrictions applying to loans made directly by the association.

*History:* Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.23 Appraisals.** (1) **APPROVED APPRAISERS.** (a) An appraisal of real estate securing loans described in s. 215.21 (9) (a) of the statutes may be performed only by an individual who the board of directors of the association has a reasonable basis to believe is qualified to make appraisals upon which the association may rely. An association may not accept an appraisal pertaining to loans described in s. 215.21 (9) (a) of the statutes unless the association's board of directors has by resolution approved the qualifications of the appraiser to appraise the type of property securing the particular loan and has authorized him to make appraisals on the association's behalf. Appraisals of real estate securing

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loans described in s. 215.21 (9) (a) of the statutes may not be made by an appraisal committee of the lending association.

(b) An association may not accept an appraisal made by or at the direction of:

1. Any person having interest in the real estate appraised; or
2. Any person whose compensation is in any way affected by approval or denial of the loan.

(2) **APPRAISAL REPORTS; CONTENTS.** Each appraisal report must be in writing signed by the appraiser. If an appraisal is made by an appraisal committee, the report must be signed by all committee members participating in the appraisal. No committee member may participate in an appraisal unless he has personally inspected the property. An appraisal report must contain such supporting information as is necessary to establish the reasonable market value of the property.

(3) **INDEPENDENT REAPPRAISALS AND DESIGNATION OF INDEPENDENT APPRAISERS AT THE DIRECTION OF THE COMMISSIONER.** (a) If the commissioner has probable cause to believe that an association's appraisals may not reasonably reflect the value of the property securing its loans or that the association's appraisal reports or procedures are such that the value of the property cannot be adequately determined, he may require reappraisals to be made by independent appraisers designated by the commissioner.

(b) Appraisals required under this subsection shall be at the expense of the association.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.25 Title examination.** (1) **PRELIMINARY TITLE REPORT.** Before disbursing any of the proceeds of a mortgage loan, an association must obtain one of the following:

(a) A written title opinion indicating the person or persons holding record title to the property securing the loan, and any liens, unpaid taxes, or other encumbrances affecting it. The opinion shall be signed by an attorney licensed to practice law in the jurisdiction in which the property is located, and shall be based upon an abstract of title or search of public records, extending through the date of the borrower's loan application or thereafter.

(b) A written preliminary report, binder or commitment, from a title guaranty insurance company, indicating the person or persons holding record title to the property securing the loan, and any liens, unpaid taxes, or other encumbrances affecting it.

(2) **RECORDING OF INSTRUMENTS; FINAL TITLE REPORT.** Immediately after a mortgage loan has been closed, an association shall take those steps necessary to obtain reasonable assurances in writing from its attorney or a title insurance company that the association's lien against the property is superior to all others.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.27 Unacceptable real estate security.** An association may not make mortgage loans secured by:

- (1) Vacant land.

(2) Real estate which does not abut on a public right-of-way, either directly or by recorded easement.

(3) Land which is not incidental to the use of a structure, if the loan is made on the security of home-type or combination-home-and-business-type property.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.29 Nonconforming loans.** (1) **RESERVES REQUIRED.** Any association making a loan which does not conform with the applicable requirements of this chapter shall, at the direction of the commissioner, establish a reserve in accordance with this section.

(a) If the loan exceeds the maximum authorized amount, a reserve shall be maintained in an amount equal to the difference between the unpaid balance of the loan and the maximum amount authorized, until the loan balance is reduced to the maximum amount authorized under this chapter.

(b) If the term, purpose or qualifying security does not conform with this chapter, a reserve shall be maintained in an amount not exceeding the unpaid balance of the loan, until the debt is retired or the loan is otherwise brought into compliance.

(2) **NATURE OF RESERVES FOR NONCONFORMING LOANS.** Any reserve established under this section shall be segregated from general reserves and undivided profits and specifically identified as a "reserve for nonconforming loans". Reserves for nonconforming loans shall be funded by a charge to undivided profits and shall be considered as part of the association's net worth. Action directed under this section is in addition to such other remedies as may be available to the commissioner.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.31 Under-secured loans.** (1) **REMEDIAL ACTION REQUIRED.** If the commissioner determines that, as a result of events occurring after a mortgage has been made, the current market value of security for a mortgage loan is less than the outstanding balance of the loan, the association shall, at the direction of the commissioner:

(a) Reduce the book value of the loan to the current market value of the security; or

(b) Establish a valuation reserve reflecting the difference between the outstanding balance of the loan and the current market value of the security; or

(c) Provide additional collateral of the kind described in section S-L 18.05 (2) (c) 1 of the code or such other additional collateral as may be acceptable to the commissioner.

(2) **NATURE OF VALUATION RESERVES.** A valuation reserve established under this section may be funded by a charge to legal reserves, undivided profits, or current earnings, but may not be included as part of the association's net worth.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.

**S-L 18.33 Discretionary authority retained by the commissioner.** The commissioner may, for good and sufficient reasons, limit, restrict or

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prohibit investments by an association in any type, category or classification of loan governed by this chapter.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76.