

Chapter S-L 18

MORTGAGE LOANS

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S-L 18.01 Classifications of real estate security. The following descriptions, as used in this section, shall further classify the types of eligible real estate security generally defined in section 215.21 (7), Wis. Stats.:

(1) "DWELLING UNIT" means a single unified combination of rooms designed for residential use by one family.

(2) "SINGLE FAMILY DWELLING" means: (a) Real estate upon which is located a structure designed for residential use by one family, or

(b) An individually owned unit designed for residential use by one family in a multiple-unit structure, the owner of which unit owns an undivided interest in the underlying real estate and the common elements of such structure. The term, "Common Elements," includes supporting walls, hallways, stairways, elevators and such other facilities as are necessary to the use and enjoyment of an individual unit.

(3) "HOME-TYPE PROPERTY" means real estate upon which there is located one or more single-family dwellings or a structure containing dwelling units for not more than 4 families in the aggregate.

(4) "COMBINATION-HOME-AND-BUSINESS-TYPE PROPERTY" means real estate upon which is located a structure used in part for residence purposes for not more than 4 families and in part for business purposes.

(5) "OTHER-HOME-TYPE PROPERTY" means real estate upon which there is located a structure or structures containing dwelling units for 5 or more families.

(6) "OTHER-COMBINATION-HOME-AND-BUSINESS-TYPE PROPERTY" means real estate upon which is located a structure or structures used in part for residence purposes for 5 or more families and in part for business purposes. This classification includes fraternity or sorority houses which have sleeping accommodations for college students, and structures used principally for providing living accommodations for students, employes or members of the staff of a college,

university, other educational institution, or hospital. Structures, known as dormitories for college students, also come within this classification.

(7) "COMMERCIAL-TYPE PROPERTY" means real estate upon which is located a structure or structures used strictly for commercial purposes. This classification also includes churches, schools, hospitals, nursing homes and homes for the aging.

(8) "SUBDIVISION PROPERTY" means vacant land that is being acquired, developed and improved, or developed and improved for residential purposes.

(9) "FULLY IMPROVED LOTS" mean vacant lots which are ready for the construction of single family dwellings or structures containing dwelling units for not more than 4 families thereon, and are pledged as security for loans to builders of homes.

(10) "VACANT LOT" means an improved or unimproved building site, upon which the borrower intends to construct and occupy as a residence, a structure containing dwelling units for not more than 4 families.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; r. and rec. (9), Register, April, 1964, No. 100, eff. 5-1-64; am. (6) and (7), Register, January, 1966, No. 121, eff. 2-1-66; cr. (10), Register, January, 1968, No. 145, eff. 2-1-68.

S-L 18.011 Maximum period of loan amortization. (1) **DIRECT REDUCTION MORTGAGE LOANS.** Contractual monthly payments on direct reduction loans granted in accordance with section 215.21 (6) (a), Wis. Stats., shall at all times be sufficient to retire the loan within 30 years from the date of first payment or the date of any additional advance.

(2) **STRAIGHT MORTGAGE LOANS.** No straight mortgage loan shall be granted for a term of years greater than that prescribed in section 215.21 (6) (b), Wis. Stats.

History: Cr. Register, August, 1972, No. 200, eff. 9-1-72.

S-L 18.02 Maximum loan ratios to appraised values. Except as otherwise provided in Wis. Adm. Code sections S-L 18.10 and S-L 18.11, no mortgage loan shall exceed the ratios herein set forth:

(1) **STRAIGHT MORTGAGE LOANS.** (a) Straight mortgage loans, secured by real estate with any type of structures thereon, shall conform to the maximum loan ratios prescribed in sections 215.21 (6) (b) 1 and 2, Wis. Stats.

(b) When the proceeds of a straight mortgage loan are used for the purpose of construction of homes, as described in Wis. Adm. Code sections S-L 18.01 (1) to (4), the maximum loan shall conform to the 80% loan limit prescribed in section 215.21 (6) (b), Wis. Stats.

(c) When the proceeds of a straight mortgage loan are used for the construction of structures containing dwelling units for 5 or more families, or structures used in part for residential purposes for 5 or more families and in part for business purposes as described in Wis. Adm. Code section S-L 18.01 (5) and (6), the maximum loan shall not exceed 75% of the appraised value of the real estate security.

(d) When the proceeds of a straight mortgage loan are used for the Register, August, 1972, No. 200

purpose of construction of a commercial type structure, as described in Wis. Adm. Code section S-L 18.01 (7), the maximum loan, regardless of amount, shall not exceed 70% of the appraised value of the real estate security.

(2) **DIRECT REDUCTION MORTGAGE LOANS.** (a) *Home-type properties and combination-home-and-business-type properties.* Any mortgage loan secured by real estate upon which is erected or upon which it is immediately planned to erect a "Home Type" structure for a single family residence or a structure for residential purposes of not more than 4 families, or a "Combination-Home-and-Business-Type" structure used in part for residential purposes for not more than 4 families, and in part for business purposes, shall not exceed 80% of the appraised value of the real estate security.

(b) *Other-home-type properties and other combination-home-and-business-type-properties.* Any mortgage loan secured by real estate upon which is erected or upon which it is immediately planned to erect a structure designed for residential purposes for 5 or more families, or a structure used in part for residential purposes for 5 or more families and in part for business purposes, or structures consisting of fraternity houses, sorority houses with living accommodations for college students, or structures used principally for providing living accommodations for students, employes or members of the staff of a college, university, other educational institution, or hospital, as described in Wis. Adm. Code, section S-L 18.01(5) and (6), shall not exceed 80% of the appraised value of the real estate security.

(c) *Commercial-type-properties.* Any mortgage loan, regardless of amount, secured by real estate upon which is erected or upon which it is immediately planned to erect a "Commercial-Type" structure, as described in Wis. Adm. Code, section S-L 18.01(7), shall not exceed 75% of the appraised value of the real estate security.

(d) *Loans to 100% of value.* In order to provide funds for financing of housing to low and moderate income families, an association may make loans not in excess of 100% of appraised value granted under the Housing Opportunity Allowance Program, 12 CFR 527. Loans made pursuant to the provisions of this section will not be subject to the mandatory security requirements set forth in section S-L 8.10.

(3) **SUBDIVISION PROPERTIES.** Any mortgage loan made for the purpose of financing the acquisition, development and improvement or the development and improvement of lands for primarily residential use, further described in Wis. Adm. Code section S-L 18.13, shall not exceed 60% of the appraised value of such security as of the completion of such development and improvement.

(4) **FULLY IMPROVED LOTS.** Any mortgage loan made to builders of homes, secured by fully improved lots for the future construction of home-type properties thereon, as defined in Wis. Adm. Code sections S-L 18.01 (2) (a), (3) and (4), shall not exceed 60% of the appraised value of such lots as prescribed in section 215.21 (17), Wis. Stats.

(5) **VACANT LOTS.** Any mortgage loan secured by a vacant lot, as

defined in Wis. Adm. Code section S-L 18.01 (10), shall not exceed 80% of either the appraised value or the sale price of the real estate security, whichever is the lesser.

(6) **SPECIFIC RESERVES ON LOANS EXCEEDING AMOUNTS PERMITTED.** Any association granting a loan or loans in excess of the maximum amounts or ratios set forth in this section shall immediately set up a specific reserve for the excess amount loaned by a charge to its current earnings, and maintain such specific reserve until the unpaid balance of the loan reaches the maximum amount authorized. After the loan has been reduced to its maximum authorized level, the specific reserve shall be transferred to undivided profits or any other general reserve account as designated by the board of directors.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; r. and recr. (1) (c) and (2) (b), Register, April, 1964, No. 100, eff. 5-1-64; am. (2) (b), Register, January, 1966, No. 121, eff. 2-1-66; cr. (5), Register, November, 1966, No. 131, eff. 12-1-66; renum. (5) to be (6), and cr. (5), Register, January, 1968, No. 145, eff. 2-1-68; am. (2) (b) and (c), Register, July, 1971, No. 187, eff. 8-1-71; renum. S-L 18.10 (9) to be S-L 18.02 (2) (d) and am., Register, September, 1971, No. 189, eff. 10-1-71.

S-L 18.03 Aggregate limitation of certain mortgage loan categories.

(1) **STRAIGHT MORTGAGE LOANS.** (a) The aggregate of straight mortgage loans is limited to 10% of the association's total assets by section 215.21 (6) (b) 6, Wis. Stats.

(b) Each straight mortgage loan shall remain as part of this category until fully repaid.

(c) Every straight mortgage loan secured by "commercial-type" property, shall also be a part of the total assets limit set for "commercial-type" properties in section 215.21 (7) (c), Wis. Stats., and shall be included in both categories.

(2) **LOANS SECURED BY "COMMERCIAL-TYPE" PROPERTY.** (a) The aggregate of mortgage loans secured by "Commercial-Type" property shall not exceed 18% of the total assets of the association in accordance with section 215.21 (7) (c).

(b) Every mortgage loan, secured by "Commercial-Type" property shall remain as part of this category until fully repaid.

(3) **PARTICIPATION LOANS.** (a) The aggregate of participation loans made under the permissive authority of section 215.21(15), Wis. Stats., consisting of the retained portion of those loans originated by the association and the participating interest in mortgage loans purchased from other lenders, shall not exceed 40% of the association's total assets. FHA or VA loans are excluded from this category.

(b) Every participation loan, whether it be that portion retained by the originating association or a participating interest purchased from other lenders, secured by "Commercial-Type" property shall also be a part of the 18% of total assets limit set for "Commercial-Type" properties in section 215.21 (7) (c), Wis. Stats., and shall remain as a part of both categories until fully repaid.

(4) **SUBDIVISION LOANS.** (a) The aggregate of loans, made for the acquisition, development and improvement or the development and improvement of lands for primarily residential use, under the permissive authority of section 215.21 (16), Wis. Stats., shall not exceed 5% of the association's total assets.

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(b) The total amount of loans of this type that may be made to any individual developer shall not exceed one-half (50%) of the 5% limit prescribed in par. (a), above.

(5) FULLY IMPROVED LOTS. (a) The aggregate of loans, made to builders of homes on the security of fully-improved lots for the future construction of single-family homes thereon, is limited to 1% of the association's total assets by section 215.21 (17), Wis. Stats.

(b) The total amount of loans of this type that may be made to an individual builder of homes shall not exceed one-half (50%) of the 1% aggregate total imposed by section 215.21 (17), Wis. Stats.

(6) VACANT LOTS. The aggregate of loans secured by vacant lots, as defined in Wis. Adm. Code section S-L 18.01 (10), shall not exceed 3% of the association's total assets.

(7) LOANS IN EXCESS OF \$200,000. The aggregate of loans in excess of \$200,000, regardless of the type of security or method of loan repayment, is limited in amount and shall remain a part of this category in accordance with section 215.21 (27), Wis. Stats.

(8) LOANS TO ONE BORROWER. (a) The aggregate of loans that may be made to any one borrower by an association, having total assets of \$1,000,000. or less, shall conform to the limits prescribed in section 215.21 (5), Wis. Stats. Any association, whose assets exceed \$1,000,000., may make loans to any one borrower, that in the aggregate do not exceed 10% of the association's savings capital or the association's total of general reserves and undivided profits, whichever is the lesser.

(b) In the event a borrower conveys title to his property to another person, subject to the association's mortgage, the loan shall be considered as a loan made to the original owner, and shall be included in the aggregate of loans made to him as an individual borrower.

(c) In the event a borrower conveys title to his property to another person and that other person assumes the payment of the mortgage, and the directors, by resolution, relieve the original borrower of any and all responsibility for the repayment of the loan, then such loan shall be deducted from the aggregate of loans made to him as an individual borrower.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; r. and recr. (3) (a), Register, October, 1966, No. 130, eff. 11-1-66; renum. (6) to be (7), and (7) to be (8), and cr. (6), Register, January, 1968, No. 145, eff. 2-1-68; am. (1) (c); r. (1) (d), (2) (c), (3) (c), (4) (c) and (5) (c), and am. (7), Register, September, 1971, No. 189, eff. 10-1-71; am. (4) (b) and (5) (b), Register, January, 1972, No. 193, eff. 2-1-72; am. (2) (a), Register, August, 1972, No. 200, eff. 9-1-72.

S-L 18.04 Lending area. The lending area of an association is defined as that area specified in section 215.21 (2), Wis. Stats.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. Register, September, 1971, No. 183, eff. 10-1-71.

S-L 18.05 Approved appraisers and appraisal reports. (1) APPROVED APPRAISERS. (a) Any person, possessing the qualifications herein described is hereby approved by the Savings and Loan Commissioner as qualified to render appraisals on real estate securing loans described in section 215.21 (9), Wis. Stats:

1. Membership in a recognized professional appraisal group organization or society, or

2. At least 10 years of appraisal work or possesses such training and experience which, in the opinion of the board of directors, would qualify him to make appraisals, or

3. Staff appraiser of any recognized appraisal firm, association, bureau or corporation, and who further meets the qualifications under sub-paragraphs (1) or (2) above.

(b) No approved appraiser shall render any appraisal reports to an association unless his appointment as such has been designated by name in a resolution adopted by the board of directors.

(c) Any association may, by board resolution, designate by name and employ an appraiser or appraisers, approved by the commissioner, to appraise real estate security on all loans.

(d) The association's duly appointed appraisal committee is not qualified as a committee to render appraisals pursuant to section 215.21 (9) (a), Wis. Stats. However, any member of such appraisal committee possessing the qualifications, prescribed in paragraph (a) above, may, upon proper resolution of the board of directors, render appraisals on real estate security described in section 215.21 (9) (a), Wis. Stats.

(e) The association's duly appointed appraisal committee is qualified to appraise any real estate security for loans except such real estate security as described in section 215.21 (9) (a), Wis. Stats.

(f) No approved appraiser or member of a duly appointed appraisal committee shall appraise real estate security for a loan if he has an interest in such property.

(2) APPRAISAL REPORTS. Each appraisal report must be signed by the appraiser, if the appraisal was made by an approved appraiser, or by a majority of the appraisal committee members if the appraisal was made by the association's appraisal committee. Each appraisal report shall set forth the value of land and improvements separately, and such other data and information to substantiate the "Reasonable Market Value" required by section 215.21 (18), Wis. Stats.

(3) SPECIAL APPRAISALS; SPECIFIC RESERVES. (a) The commissioner may employ independent appraisers of his own choice to reappraise any or all of the real estate securing the loans made by the association when he determines that:

1. The association's appraisals may be excessive; or
2. The association's lending policies or procedures may be of a marginal nature, or
3. The association's appraisal policies and practices may not conform with generally accepted and professional appraisal standards; or
4. The association's assets, secured by real estate are overvalued;

or

5. The association, in order to correct violations of lending restrictions relating to maximum amounts or authorized maximum ratios, reappraises the real estate securing such loans to qualify such loans as complying with prescribed amounts or maximum ratios set forth in this section, or

6. The annual supervisory examination report discloses high ratios of mortgage loan delinquencies, loan concentration secured by real estate situated in declining areas, loan concentration to speculative

builders, granting of new loans or extending existing mortgage loans to speculative builders when such speculative builder is indebted to the association on completed structures which have remained unsold for an undue period of time, appraisals made by the association's appraisal committee substantially exceed sales prices, the disbursement of funds on construction, loans in advance of the actual progress of construction, or any other adverse factors or trends which would tend to impair the value of the assets of the association.

(b) The cost of such appraisals shall be paid promptly by the association to the appraiser who made the appraisals.

(c) If the appraisals, as described in par. (a) above, reveal that the unpaid balance of individual loan accounts exceed the maximum amounts or ratios as set forth in this section, the association shall, at the direction of the commissioner, set up specific reserves out of current earnings, undivided profits or general reserves for each such loan account.

(d) The specific reserve, as used in this section, shall be the amount of the individual loan account balance in excess of the permissible lending limitations as set forth in Wis. Adm. Code section S-L 18.02, as determined by the reappraisal.

(e) The specific reserve shall be maintained until the unpaid balance of individual loan accounts is reduced to maximum lending limitations, amounts or ratios. After the loan has been reduced to its maximum authorized level, the specific reserve shall be transferred to undivided profits or any other general reserve account as designated by the board of directors.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; cr. (3), Register, January, 1967, No. 133, eff. 2-1-67.

S-L 18.06 Opinions of title. (1) OPINIONS OF TITLE FROM ABSTRACTS.

(a) Upon the approval of a mortgage loan by the association and upon the acceptance of the loan commitment by the applicant, the association shall cause a check of the public records to be made by an abstractor or other competent person to determine status of title, incumbrances, judgments, liens and taxes for the purpose of obtaining preliminary information for the preparation of the loan file. Such preliminary file of reports shall be in writing. The preliminary opinion of title shall be made in writing by an attorney at law.

(b) If the association is refinancing an existing mortgage and has a final opinion of title on such loan, then said final opinion of title may be accepted in lieu of a preliminary opinion of title provided that the extension of the abstract, prior to the refinancing shows that there are no unsatisfied, intervening mortgages, liens or judgments.

(c) At the time of loan closing, after all necessary conveyances, mortgages, mortgage notes, satisfactions and releases have been executed, the association, upon information and belief contained in its preliminary title search, may disburse loan proceeds.

(d) Immediately after loan closing, all deeds, mortgages, satisfactions and releases shall be recorded; thereafter the abstract, describing the mortgaged premises, shall be extended and the association's attorney or any attorney approved by the association shall examine such abstracts and render a final opinion of title in writing advising the association that each borrower has good title, and that the association's mortgages are first liens thereon.

(2) **TITLE GUARANTY POLICIES: WHEN ACCEPTABLE.** (a) Upon approval of a mortgage loan by the association and upon the acceptance of the loan commitment by the applicant, the association, in lieu of opinions of title from abstracts, shall obtain a preliminary report, letter, binder or commitment to insure from the title guaranty insurance companies showing status of title, incumbrances, judgments, liens and taxes for the purpose of obtaining preliminary information for the closing of the loan.

(b) At the time of loan closing, after all necessary conveyances, mortgages, mortgage notes, satisfactions and releases have been executed, the association, upon information and belief contained in the preliminary reports, letters, binders or commitments to insure, may disburse loan proceeds.

(c) Immediately after loan closing, all deeds, satisfactions, mortgages and releases shall be recorded, and title policies insuring first liens to the association shall be obtained within 1 year on all loans made for purposes of construction, and within 2 months on mortgage loans made for purposes other than construction. Every savings and loan association shall have the discretionary right to determine whether its duly appointed attorney shall render an opinion of title on the real estate on which a title policy of insurance has been accepted by the association.

(3) **TITLE SEARCH FOR INTERVENING LIENS ON ADDITIONAL ADVANCES.**

(a) Prior to granting an additional advance on a mortgage loan, the association shall obtain a letter or affidavit from the attorney, abstractor or title company that the records have been checked to determine the existence of any intervening liens.

(b) If such title search reveals the existence of intervening liens, no additional advance shall be made unless subordination agreements are obtained from the holders of said liens, or the liens satisfied.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64.

S-L 18.07 Construction loans. The proceeds of a loan made for the purpose of meeting the cost of constructing a building and monies deposited with the association by a borrowing member for the same purpose shall be subject to disbursement only to the borrowing member or upon a written order signed by the borrowing member or his duly authorized agent directing that payment be made to a contractor, sub-contractor or material man furnishing labor and material on the property pledged as security for a loan.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64.

S-L 18.08 Renewal or extension of straight mortgage loans. Any savings and loan association renewing or extending straight mortgage loans, pursuant to the provisions of subsection 215.21 (6) (b) 4, Wis. Stats., shall follow the following procedure: (1) The borrower shall request in writing his desire for an extension or renewal of his mortgage loan. Such notice shall identify the mortgage sought to be renewed or extended and shall state the additional time desired, and shall be signed by the borrower.

(2) The board of directors shall take formal action upon each extension and renewal request. If the board approved such application,

the minutes shall state the time granted for the renewal or extension and the rate of interest to be paid.

(3) After the application for extension or renewal has been approved by the board, an "Extension of Mortgage" form shall be executed by the borrower and the association in such form as shall enable it to be recorded in the office of the register of deeds.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64.

S-L 18.09 Types of real estate unacceptable as mortgage loan security. Unless the real estate pledged as security on a mortgage loan shall abut on a public right-of-way or shall have access to a public right-of-way by a recorded easement, or where real estate security is located to the rear of another parcel of real estate owned by a party other than the owner of the real estate offered as security, it shall be unacceptable as security for a mortgage loan. An alley shall not be considered a public right-of-way.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64.

S-L 18.10 Loans with mortgage insurance. (1) Types of eligible security. Any association may exceed the maximum loan ratios set forth in section S-L 18.02 subject to the provisions of this section.

(2) Loans secured by residential, owner-occupied properties. Any association may exceed the maximum loan ratio as imposed by section S-L 18.02 (2) when such loans are secured by real estate as defined in S-L 18.02 (2) (a), provided that the premises be occupied in whole or in part by the borrower as his dwelling. No loan made pursuant to the provisions of this section shall exceed 95% of the appraised value of the real estate security, provided that the portion of the loan in excess of 80% is fully secured by mortgage insurance.

(3) **OTHER LOANS.** Any association may exceed the maximum loan ratio as imposed by sections S-L 18.02 (2) (a) and (b) when such loans are secured by real estate as defined in sections S-L 18.02 (2) (a) and (b). No loan made pursuant to the provisions of this section shall exceed 90% of the appraised value of the real estate security, provided that the portion of the loan in excess of applicable limits is fully secured by mortgage insurance.

(4) **MANDATORY ADDITIONAL SECURITY.** That portion of any loan in excess of the maximum loan ratios set forth in section S-L 18.02 shall be fully secured by such acceptable collateral, as defined in section S-L 18.11, or mortgage insurance or both, as may be determined by the board of directors of the association. The term, mortgage insurance, as used herein, is defined as insurance which shall indemnify the association, in whole or in part against loss resulting from default of the borrower's contractual payments as specified in the mortgage note.

(5) **OTHER REQUISITES.** No loan with mandatory additional security shall be made unless the following conditions are met:

(a) That the borrower execute an affidavit or certificate stating that no additional financing other than the association's mortgage, has been agreed upon by the borrower.

(b) The borrower shall have a minimum equity of 5% of the appraised value exclusive of work credits on loans secured by residential, owner-occupied properties and 10% on other loans.

(c) On loans made for the purpose of financing construction the following must be observed by the association:

1. The aggregate of loan disbursements up to the completion of construction shall not exceed 80% of the appraised value of the real estate.

2. The amount of such loan in excess of 80% of the appraised value of the real estate security shall not be disbursed until construction has been fully completed.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. (6) (c), Register, April, 1964, No. 100, eff. 5-1-64; am. (4) and cr. (9), Register, May, 1971, No. 185, eff. 6-1-71; renum. (9) to be S-L 18.02 (2) (d) and am.; am. (1), (2), (3), (4), (5), (6), (7) and (8), Register, September, 1971, No. 189, eff. 10-1-71.

S-L 18.11 Loans with other collateral. (1) Any association may make mortgage loans exceeding the maximum loan ratio set forth in section S-L 18.02 when the excess of such mortgage loan is fully secured by any of the following:

(a) The cash surrender value of an insurance policy on the life of any person responsible for the payment of the mortgage note.

(b) Negotiable securities of the United States Government and any agency thereof which are guaranteed as to principal and interest by the United States Government.

(c) Market value of bonds, notes, or other evidences which are a general obligation of any city, town, village, county or school district of this state.

(d) Savings accounts, certificates of savings and certificates of deposit of the lending institution or of other savings and loan associations and banks insured by the FSLIC or FDIC. Such collateral may be the property of any person and may be accepted at full withdrawal value.

(2) The maximum amount of any mortgage loan made pursuant to the provisions of this section, may be made up to but shall not exceed the appraised value of the improved real estate security.

(3) Upon proper assignment of the collateral, a collateral trust agreement shall be executed between the borrower, the owner of the collateral and the mortgagee association. The trust agreement shall provide the manner in which the collateral may be released.

(4) The mortgage note shall contain a recitation to the effect that said loan is further secured by a collateral trust agreement of even date.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. (1), Register, January, 1968, No. 145, eff. 2-1-68; am. Register, 1971, No. 189, eff. 10-1-71.

S-L 18.12 Participation loans. (1) **DEFINITIONS.** As used in this section the term "approved lenders" means:

(a) Federal savings and loan associations.

(b) Banks insured by the federal deposit insurance corporation.

(c) Insurance companies licensed to do business in this state.

(d) State-chartered savings and loan associations insured by the federal savings and loan insurance corporation, or other insuring bodies approved by the commissioner.

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(e) State-chartered savings and loan associations organized under chapter 215, Wis. Stats., which members' accounts are not insured.

(f) Other instrumentalities or corporations organized, owned, or controlled wholly or in part by this state or the United States.

(g) Tax exempt organizations operated under subsection (a) of section 501 of the internal revenue code as now or hereafter in effect.

(h) Approved federal housing administration mortgagee.

(2) LOANS WITHIN NORMAL LENDING AREA. Any association may purchase a participating interest in loans on the security of real estate located within its normal lending area as defined in section 215.21 (2) Wis. Stats. from an approved lender and may sell a participating interest in any loan to any purchaser.

(3) LOANS ON REAL ESTATE LOCATED BEYOND NORMAL LENDING AREA. Any association may purchase a participating interest in loans on the security of "home-type" or "other home-type" properties located beyond its normal lending area as defined in section 215.21 (2) Wis. Stats., from an approved lender, provided that:

(a) The loan is government insured or guaranteed; or

(b) The originating lender certifies that:

1. The security property is located within its regular lending area.

2. Any loan in excess of 80% of appraised value shall be further collateralized as provided in section S-L 18.10.

Any association may sell participating interests in loans to any purchasers located beyond its normal lending area.

(4) RETENTION REQUIREMENT. The originating lender in all cases shall retain at least a 10% interest in each loan in which a participating interest is sold. The selling institution shall certify to all purchasers that such interest will be retained.

(5) PERCENTAGE OF ASSETS. The aggregate amount of participating interests purchased shall not exceed 40% of the association's assets. The provisions of this paragraph shall not apply to any loan that is government insured or guaranteed.

(6) LOAN DOCUMENTATION. (a) *Mortgage and mortgage notes of participation loans.* The mortgage and mortgage note of any participation loan shall contain only the name of the originating lender as the "Mortgagee" and shall be retained by said originating lender along with the other related documents.

(b) *Participation loan agreement and loan certificate.* Each participation loan shall be evidenced by a participation loan agreement and loan certificate, executed and signed by both the originating lender and the purchasing lender. The participation loan agreement shall be in such form as determined by the attorneys of the participants concerned. The participation loan certificate shall properly identify the security.

(7) SALE OF PARTICIPATING INTERESTS IN MORTGAGE LOANS. The sale of a participating interest in any mortgage loans by an association organized pursuant to chapter 215, Wis. Stats., shall be without recourse.

(8) APPLICABILITY OF OTHER STATUTORY AND CODE PROVISIONS. All participation loans, whether retained portions of those originated

or the participating interests purchased from other lenders, must conform to other applicable standards, requirements and restrictions contained in chapter 215, Wis. Stats., and the savings and loan section (S-L) of the Wis. Adm. Code.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; r. and recr., Register, September, 1965, No. 117, eff. 10-1-65; r. and recr., Register, October, 1966, No. 130, eff. 11-1-66; am. (2) (a) and (b), (3) (a), (4), (5) (a), Register, November, 1968, No. 155, eff. 12-1-68; cr. (1) (d) 8., am. (2), (3) (4), (6) and (12), Register, September, 1971, No. 189, eff. 10-1-71; am. Register, August, 1972, No. 200, eff. 9-1-72.

S-L 18.121 Loans as joint mortgagee with other lenders. (1) Any association may make joint loans with other approved lenders as defined in section S-L 18.12 (1). Each joint mortgage shall be evidenced by a single mortgage securing the mortgage notes held by the mortgagees participating in such joint venture.

(2) All joint mortgage loans must conform to other applicable standards, requirements and restrictions contained in chapter 215, Wis. Stats., and the savings and loan section (S-L) of the Wis. Adm. Code.

(3) At the time of closing a joint mortgage loan, the joint mortgagees shall execute an agreement setting forth the rights, duties, and responsibilities of the parties to the transaction. Joint loan agreements shall be in such form as determined by the attorneys of the joint mortgages concerned.

History: Cr. Register, August, 1972, No. 200, eff. 9-1-72.

S-L 18.13 Subdivision loans. (1) **WHEN PERMITTED.** Any association whose total general reserves and undivided profits are equal to or exceed 5% of total assets, may make subdivision loans authorized by subsection 215.21 (16), Wis. Stats.

(2) **LOCATION OF REAL ESTATE SECURITY.** The land securing loans of this type shall be situated in Wisconsin and not more than 50 miles distant from the association's office.

(3) **TITLE OF REAL ESTATE SECURITY.** The title of the real estate security to all loans of this type shall be on land in fee simple.

(4) **AGGREGATE OF SUBDIVISION LOANS.** The aggregate of subdivision loans shall not exceed 5% of the association's total assets.

(5) **LOANS TO ONE BORROWER.** The total of loans made to any single borrower, for the purpose prescribed in section 215.21 (16), Wis. Stats., shall not exceed 50% of the aggregate amount prescribed in subsection (4) above.

(6) **TYPES OF SUBDIVISION LOANS.** Subsec. 215.21 (16), Wis. Stats., permits the following types of subdivision loans:

(a) A loan, the proceeds of which will be used by the applicant borrower to acquire, develop and improve land for primarily residential use, or

(b) A loan, the proceeds of which will be used by the applicant borrower to develop and improve land, owned by him, for primarily residential use.

(7) **MORTGAGE AND MORTGAGE NOTE.** The amount of the loan specified in the mortgage and mortgage note shall not exceed 60% of the appraised value of the real estate upon completion of the developments and improvements.