

## OFFICE OF COMMISSIONER OF SAVINGS AND LOAN 55

## 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 used in part for residential purposes for 5 or more families and in part for business purposes. This classification includes:

(a) Structures used principally for providing living accommodations for students, employes or members of the staff of an educational institution or hospital.

(b) Nursing homes and homes for the aging.

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

(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 recr. (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; r. and recr. (6) and (7), Register, July, 1974, No. 223, eff. 8-1-74.

**S-L 18.011 Maximum term of direct reduction loans. (1) DEFINITIONS.** In this section:

(a) *Direct reduction loan.* "Direct reduction loan" means a loan made under section 215.21 (6) (a), Wis. Stats.

(b) *Maximum term.* "Maximum term" means a term of 30 years commencing with:

1. The date of the first contractual 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 section 215.21 (3) (b), Wis. Stats., or, in the case of a note under S-L 8.01 (2), Wis. Adm. Code, any interest rate increase required by an index used as a reference to determine the interest rate in effect.

(2) **MAXIMUM PERIOD OF LOAN AMORTIZATION; EXCEPTIONS.** The contractual monthly payments on a direct reduction loan shall at all times be sufficient to retire the loan within the maximum term, except:

(a) *Payments after interest increase.* If the interest rate on a direct reduction loan is increased during the term of the loan and the mortgage note does not require the borrower to make increased monthly payments which fully reflect such increase, an association may permit the borrower to make monthly payments in an amount not greater than those required immediately prior to such increase.

(b) *Flexible payment mortgages.* In the case of a direct reduction loan made for the construction or purchase of a single family dwelling unit to be occupied by the borrower as his residence, contractual payments may, for a period of not more than 5 years, be in an amount less than those required to retire the loan within the maximum term, provided:

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1. The contractual payments during such period are sufficient to pay interest due for the payment period;
2. The remaining contractual payments will at all times be sufficient to retire the loan within the balance of the maximum term; and
3. The loan is written for a term of not less than 10 years.

**History:** Cr. Register, August, 1972, No. 200, eff. 9-1-72; r. and recr., Register, April, 1974, No. 220, eff. 5-1-74.

**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 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 property and combination-home-and-business-type property.* No mortgage loan secured by real estate upon which is erected, or upon which it is immediately planned to erect, a "home-type" or "combination-home-and-business-type" structure may exceed 80% of the appraised value of the real estate security.

(b) *Other-home-type-property and other-combination-home-and-business-type property.* No mortgage loan secured by real estate upon which is erected, or upon which it is immediately planned to erect, an "other-home-type" or "other-combination-home-and-business-type" structure may 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.* 1. Notwithstanding the loan limits prescribed in paragraphs (a) to (c), an association may make direct reduction loans of up to 100% of appraised value if:

a. The loan is made under the Housing Opportunity Allowance Program, 12 CFR 527;

b. An agency of this state or of the federal government 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 reasonably believes that any conditions upon which such commitment is based will be met; or

c. An agency of the federal government, or this state or of a political subdivision of this state has made a written commitment to purchase the loan or the property securing the loan, and the association reasonably believes that any conditions upon which such commitment is based will be met.

2. Loans made under this paragraph are not subject to mandatory additional security under section S-L 18.10 Wis. Adm. Code.

(3) **SUBDIVISION LOANS.** No mortgage loan made for the purpose of financing the acquisition, development and improvement, or the development and improvement, of lands for primarily residential use may exceed 75% 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; r. and recr. (2) (d), Register, April, 1974, No. 220, eff. 5-1-74; r. and recr. (2) (a) and (b) and (3), Register, July, 1974, No. 223, eff. 8-1-74.

**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.

(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 \$400,000. In addition to being subject to any other applicable category limitations, loans in excess of \$400,000 are subject to those limitations specified in section 215.21 (27), Wis. Stats.

(8) **LOANS TO ONE BORROWER.** (a) The aggregate of loans made by an association to any one borrower may not exceed the lesser of the following:

1. 10% of the assets of the association.
2. The net worth of the association.

(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, r. and recr. (7) and (8) (a), Register, March, 1975, No. 231, eff. 4-1-75.

**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. 189, 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.

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(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 paragraph (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.

Register, March, 1975, No. 231

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**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 association 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 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.

(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 OUTSIDE NORMAL LENDING AREA.** (a) An association may purchase from an approved lender a participating interest in loans on property located beyond the association's normal lending area (as defined in section 215.21 (2), Wis. Stats.), provided the loan is not subject to S-L 18.13 or S-L 18.14 Wis. Adm. Code.

(b) No loan in excess of 80% of appraised value may be purchased under this subsection unless it is:

1. Guaranteed or insured by an agency of this state or of the federal government; or
2. Collateralized under S-L 18.10 Wis. Adm. Code.

(c) A participating interest in a loan may be sold by an association to purchasers located beyond the association's 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, Register, March, 1975, No. 231

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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; r. and recr. (3), Register, April, 1974, No. 220, eff. 5-1-74.

**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) **ASSOCIATION QUALIFICATIONS.** An association may not make subdivision loans under section 215.21 (16), Wis. Stats., unless its total general reserves and undivided profits constitute 5% or more of the association's total assets.

(2) **TERM OF LOAN.** (a) *Maximum term.* The maximum initial term of a subdivision loan is 5 years.

(b) *Extensions.* A subdivision loan may be extended upon the written application of the borrower and the approval of the association's board of directors, but under no circumstances may the initial term plus the term of the extension exceed a total of 6 years. No subdivision loan may be extended at maturity unless all taxes on the property and all contractual payments on the loan are current.

(3) **LENDING AREA.** Each subdivision loan must be within the association's lending area, as defined under section 215.21 (2), Wis. Stats.

(4) **APPLICATIONS AND CONDITIONS.** (a) *Title to security.* Title to all property securing a subdivision loan shall be in fee simple.

(b) *Appraisals.* Before making a subdivision loan an association shall obtain an appraisal setting forth:

1. The value of the land to be developed.

2. The value of the real estate security upon completion of the proposed development and improvement, including an appraisal of the individual lots in the tract. Estimates of development and improvement costs shall be supported by data furnished and prepared by a qualified engineer.

(c) *Development schedule.* The applicant borrower shall enter into an agreement with the association, setting the commencement date and a completion date of each phase of development.

(d) *Release privileges.* The association and the applicant borrower shall by written agreement establish terms governing the release of individual lots from the association's security interest. Release of any

given property shall be contingent upon the borrower paying the association at least 85% of the sale price of such property or of the value of said property as appraised under paragraph (b) 2, whichever is greater.

(e) *Other required information.* Before making a subdivision loan an association shall obtain:

1. A survey of the subdivision, properly identifying all lots.

2. A statement of the applicant borrower indicating the date on which the land was or will be purchased, the cost of the land to the applicant, the estimated cost of development and improvement and the estimated value of the property upon completion of developments and improvements.

(5) **DISBURSEMENTS.** At no time prior to completion may total disbursements on a subdivision loan exceed 75% of the value of the land as appraised under subsection (4) (b) 2, plus 75% of the cost of completed developments and improvements.

**History:** Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. (3), Register, September, 1971, No. 189, eff. 10-1-71; r. and recr., Register, July, 1974, No. 223, eff. 8-1-74.

**S-L 18.14 Builders' loans secured by vacant lots.** (1) **WHEN PERMITTED.** Any association whose total general reserves and undivided profits are equal to or exceed 5% of total assets, may make loans to builders of homes on the security of fully-improved lots, pursuant to the provisions of subsection 215.21 (17), Wis. Stats.

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

(3) **LOANS TO ONE BORROWER.** The total of loans made to any single borrower shall not exceed 50% of the aggregate amount prescribed in section 215.21 (17), Wis. Stats.

(4) **COMMENCEMENT OF CONSTRUCTION OF STRUCTURES THEREON.** In addition to the regular loan documents, the borrower will execute an affidavit that he will commence construction of single-family dwellings or structures containing dwelling units for not more than 4 families on a specified number of lots, not later than 6 months after the loan was granted, and that he will build to completion structures on all of the lots within the 3 year term of the loan.

(5) **RELEASE OF LOTS FROM PLEDGE.** No lot may be released from loan security unless the security of the remaining lots bears the same ratio of value to the remaining unpaid loan balance as at the time the loan was made.

(6) **APPRAISAL REQUIREMENT.** The appraisal report on loans of this type shall state separately the value of each lot securing said loan.

(7) **OTHER REQUIREMENTS.** All loans made to builders of homes on the security of fully-improved lots shall be supported by the following documents:

(a) Name of applicant. If the applicant is a corporation, the names of the officers and shareholders of the corporation.

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(b) A financial statement of the applicant to determine that the applicant has the necessary financial ability to undertake and pay off the loan obligation.

(c) A written credit report on the applicant. If the applicant is a corporation, a written credit report on the corporation, its officers and principal shareholders.

(d) A survey of the subdivision plat wherein the lots are properly identified.

(e) A statement of the applicant showing:

1. Date on which the lots were or will be purchased.

2. The cost of the lots to the applicant.

3. The types of structures that will be erected on the lots and the price range of such homes when completed.

*History:* Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. (3), Register, September, 1971, No. 189, eff. 10-1-71.

**S-L 18.15 Members' loans secured by vacant lots.** Loans secured by vacant lots, as defined in Wis. Adm. Code section S-L 18.01 (10), made pursuant to section 215.21 (29), Wis. Stats., shall conform to the following:

(1) The amount of each loan shall not exceed 80% of either the appraised value or the sale price of the real estate security, whichever is the lesser.

(2) Each loan shall be repaid, within a period of 10 years, in regular monthly installments, to include 1/12 of the real estate taxes and special assessments.

(3) The aggregate of such loans shall not exceed 3% of the association's total assets.

(4) No association shall grant any loan secured by a vacant lot to a borrower while said borrower has any other such loan outstanding.

(5) The borrower shall execute at the time of loan closing an affidavit or certificate stating:

(a) That the borrower intends to construct on the building site offered as security, a structure to be occupied by the borrower as a residence.

(b) That the borrower has no other loans, secured by vacant lots, made pursuant to section 215.21 (29), Wis. Stats., with either the granting association or any other savings and loan association.

(c) The cost to the borrower of the real estate security and the improvements thereto, if any.

*History:* Cr. Register, January, 1968, No. 145, eff. 2-1-68.

**S-L 18.16 FHA and GI loans.** Mortgage loans, as authorized by subsection 215.21 (12), Wis. Stats., which are insured or guaranteed wholly or in part under The National Housing Act, approved June 27, 1934, or The Servicemen's Readjustment Act of 1944, U.S.P.L. 346, shall be excluded from all restrictions, categories and classifications imposed by Ch. 215, Wis. Stats., and the Savings and Loan section of

the Wis. Adm. Code. This exclusion is authorized by section 219.03, Wis. Stats.

**History:** Cr. Register, January, 1964, No. 97, eff. 2-1-64; renum. to be S-L 18.16; Register, January, 1968, No. 145, eff. 2-1-68.

**S-L 18.17 Other required records and documents.** All state-chartered savings and loan associations, whose members' accounts are insured by the Federal Savings and Loan Insurance Corporation, shall maintain such other records and documents as required in the rules and regulations for insurance of accounts.

**History:** Cr. Register, January, 1964, No. 97, eff. 2-1-64; renum. to be S-L 18.17, Register, January, 1968, No. 145, eff. 2-1-68.

**S-L 18.18 Whole loans outside an association's lending area. (1) AUTHORITY.** Pursuant to section 215.21 (28), Wis. Stats., an association may:

(a) *Origination.* Make loans outside its lending area.

(b) *Purchase.* Purchase loans outside its lending area from an insured institution or approved mortgagee.

(2) **CERTAIN LOANS ENELIGIBLE.** The following may not be made or purchased under section 215.21 (28), Wis. Stats.:

(a) *Subdivision loans.* Loans on subdivision property as defined under section S-L 18.01 (8).

(b) *Loans on vacant lots.* Loans on vacant lots as defined under section S-L 18.01 (10).

(c) *Loans on fully improved lots.* Loans on fully improved lots as defined under section S-L 18.01 (9).

(d) *Foreign loans.* Loans secured by real estate located outside the United States.

**History:** Cr. Register, November, 1965, No. 119, eff. 12-1-65; renum. from S-L 18.17 to be S-L 18.18; am. (6), Register, January, 1968, No. 145, eff. 2-1-68; r. and recr., Register, July, 1974, No. 223, eff. 8-1-74.

**S-L 18.19 Fully insured loans.** Notwithstanding any limitation or restriction imposed elsewhere in this chapter, any association, whose aggregate of scheduled items is less than 4% of total assets, may, pursuant to the provisions of section 210.20, Wis. Stats., invest in or make loans of up to 100% of the appraised value or cost of the real estate security, whichever is less, provided that such loans are fully insured, to indemnify the association against all loss resulting from default, by a private mortgage insurance company permitted to do business in this state and by the Wisconsin Indemnity Fund.

**History:** Cr. Register, July, 1968, No. 151, eff. 8-1-68.

**S-L 18.20 Discretionary authority of commissioner.** The commissioner may, for good and sufficient reasons, limit, restrict or prohibit an association's authority to invest in any type, category or classification of loan set forth in this chapter.

**History:** Cr. Register, September, 1971, No. 189, eff. 10-1-71.