



STATE OF WISCONSIN)
)
 OFFICE OF COMMISSIONER OF SAVINGS AND LOAN)

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 Revisor of Statutes
 ORDER NO. 116
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I, R. J. McMahon, Commissioner of Savings and Loan and custodian of the official records of the Office of Commissioner of Savings and Loan, do hereby certify that the annexed Order No. 116 relating to mortgage loan investment by state chartered savings and loan associations, was duly approved and adopted by this office on March 1, 1982.

I further certify that the copy of the Order annexed hereto has been compared by me with the original on file in this office and that the same is a true copy thereof, and the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of this office in the City of Madison this 9th day of March, 1982.



R. J. McMahon
 R. J. McMahon, Commissioner

ORDER OF THE
OFFICE OF THE COMMISSIONER OF SAVINGS AND LOAN
ADOPTING, REPEALING, RENUMBERING AND AMENDING RULES

ORDER NO. 116

WHEREAS, the rules embodied by this order were submitted to the Legislative Council staff as required under section 227.029 of the Wisconsin Statutes; and

WHEREAS, in accordance with section 227.021 of the Wisconsin Statutes official notice of a hearing on the rules embodied by this order was published in the Wisconsin Administrative Register of October 31, 1981; and

WHEREAS, pursuant to that notice a public hearing was held on November 18, 1981 at which a draft of the attached rule was the topic of discussion; and

WHEREAS, following that hearing a final draft of the rule was approved by the Commissioner of Savings and Loan and the Savings and Loan Review Board; and

WHEREAS, on December 15, 1981, the final draft of the rule was submitted to the presiding officers of the Senate and Assembly and was referred by those officers to the appropriate standing committee on December 16, 1981 and December 17, 1981, respectively, all in accordance with section 227.018 of the Wisconsin Statutes; and

WHEREAS, neither legislative standing committee has objected to any portion of the proposed rule and the time for so doing has expired;

Now, Therefore, pursuant to the authority vested in the Commissioner of Savings and Loan and the Savings and Loan Review Board by sections 215.02(7)(a) and 227.014(2)(a), Wisconsin Statutes, the Office of the Commissioner of Savings and Loan hereby adopts rules as follows:

ORDER OF THE OFFICE OF THE COMMISSIONER OF
SAVINGS AND LOAN ADOPTING, REPEALING, RENUMBERING AND AMENDING RULES

AN ORDER to repeal S-L 18.06, 18.08, 18.11, 18.17, 18.21 and 18.25 to 18.29; to renumber S-L 18.05(3), 18.14, 18.15, 18.23, 18.31 and 18.33; to amend S-L 18.03(2) and (3) and 18.11(1)(intro.) and (2)(a) and 18.17(1)(c) as renumbered; to repeal and recreate S-L 18.01, 18.05(1) and (2), 18.07, 18.09 and 18.19; and to create S-L 18.05(3), (5) and (6) and 18.13 of the administrative code relating to mortgage lending by savings and loan associations.

Analysis of the Office of the Commissioner of Savings and Loan

Savings and loan associations are authorized under section 215.21 of the statutes to make mortgage loans. The office of the commissioner of savings and loan has promulgated S-L 18 under section 215.21 of the statutes regulating mortgage lending by state chartered savings and loan associations. The rule substantially revises S-L 18 which interprets sections 215.02(7)(a), 215.03(1), 215.13(21) and (22) and 215.21 of the statutes. Changes made include the following:

1. Savings and loan associations are permitted to make mortgage loans with loan to value ratios of up to 90% of the mortgage real estate. That ratio may not be exceeded at any time during the term of the loan by negative amortization or otherwise. Under the prior rule the maximum loan to value ratios were set at between 65 and 80% depending on the nature of the real estate mortgaged. The prior rule did permit loan to value ratios of up to 100% where mortgage insurance is obtained and certain other exceptions are provided for. Those exceptions are retained.
2. The rule permits negative amortization. Under the prior rule, with a limited exception for graduated payment mortgages, negative amortization was prohibited.
3. The rule does not differentiate between direct reduction loans and straight loans, thus permitting a straight loan with a term of up to 30 years. Under the prior rule straight loans may not exceed a term of 5 years although they may be extended thereafter for successive two year periods.
4. The rule removes limits on the amount a savings and loan association may disburse for various categories of loans. The rule retains the limit on aggregate loans to one borrower. Under the prior rule the percentage of savings and loan assets which could be invested in straight loans, commercial property loans, participation loans, loans outside the association's normal lending area, development loans, personal lot loans and loans in excess of \$400,000 was limited to a specified percentage of assets for each category.
5. The rule removes specific limits on loans secured by vacant lots. The general limits regarding mortgage loans instead apply. Under the prior rule personal lot loans could not exceed a term of 10 years and no more than one loan could be given per borrower.

6. The rule permits savings and loan associations to purchase and sell participating interests in mortgage loans subject to the same standards as apply to originating mortgage loans. Under the prior rule an association could purchase participating interests only from approved lenders, and could not make or purchase a participation loan secured by a subdivision, builder's lot or personal lot located outside its normal lending area.
7. The rule permits a savings and loan association to invest in whole loans outside its normal lending area subject to the same standards as originating mortgage loans. The statutory restrictions on the aggregate amount of investment in whole loans outside the normal lending area of 10% of assets remains, however.
8. The rule removes specific regulatory requirements regarding title examinations and acceptable real estate security and instead requires the exercise of reasonable, prudent business judgment.
9. The rule deletes reference to reserves for nonconforming loans as may be required by the commissioner. Such reserves may be required under the general authority of the commissioner under section 215.03(1) of the statutes.
10. The authority of the commissioner to in his discretion limit, restrict or prohibit investments by an association in any type, category or classification of a mortgage loan is retained.

Pursuant to the authority under sections 215.02(7)(a), 215.13(21) and (22) and 215.21, Stats., the office of the commissioner of savings and loan proposes to repeal, re-number, amend, repeal and recreate and to create rules interpreting sections 215.02(7)(a), 215.03(1), 215.13(21) and (22) and 215.21, Stats., as follows:

SECTION 1. S-L 18.01 of the administrative code is repealed and recreated to read:

S-L 18.01 DEFINITIONS. In this chapter:

- (1) "Association" means an association or a foreign association as defined by s. 215.01(1) or (9), Stats.
- (2) "Builder's lot" means a lot suitable for construction of dwelling units and purchased by a builder for the construction of one or more dwelling units thereon.
- (3) "Commissioner" means the commissioner of savings and loan or his or her authorized representative.
- (4) "Development loan" means a loan made on the security of a builder's lot or subdivision property.

(5) "Dwelling unit" means a single unified combination of rooms designed for residential use by one family.

(6) "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.

(7) "Participating interest" means a mortgagee's interest in a participation loan.

(8) "Participation loan" means a mortgage loan evidenced by a note in which the purchaser owns an interest of less than 100%.

(9) "Subdivision property" means a tract of land that is being developed into lots for primarily residential purposes.

(10) "Value" means, with reference to real estate securing a mortgage loan, the reasonable market value of the property as appraised under S-L 18.15.

SECTION 2. S-L 18.03 (2) and (3) of the administrative code are amended to read:

S-L 18.03(2) LIMITED APPLICABILITY. This chapter does not apply to ~~loans~~ a loan ~~that~~ which may be made without real estate security, but for which an association obtains the additional security of a real estate, if the association elects not to make the loan under this chapter at the time the loan is made. The requirements and restrictions on real estate used as qualifying security for a mortgage loan made in accordance with this chapter 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. 45 or 219 ~~of the statutes~~, Stats.

SECTION 3. S-L 18.05 (1) and (2) of the administrative code are repealed and recreated:

S-L 18.05 (1) DEFINITIONS. In this section "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.

(2) LIMITATIONS; FIRST LIEN MORTGAGES. Except as provided in sub. (4), an association may not make a loan secured by a first lien mortgage in an amount in excess of 90% of the value of the real estate security.

SECTION 4. S-L 18.05(3) of the administrative code is renumbered S-L 18.05(4).

SECTION 5. S-L 18.05(3) of the administrative code is created to read:

S-L 18.05(3) LIMITATIONS; JUNIOR LIENS. An association may not make a loan secured by a mortgage other than a first lien mortgage in an amount in excess of:

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

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

SECTION S-L 18.05(5) and (6) of the administrative code are created to read:

S-L 18.05(5) ADVANCES. At no time during the term of a mortgage loan may the outstanding balance of the loan exceed the amount permitted under subs. (2), (3) and (4) based upon the original appraised value or the current value of the mortgaged property, whichever is greater.

(6) CALCULATION. When calculating the loan to value ratio 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 its current or intended use.

SECTION 6. S-L 18.06 of the administrative code is repealed.

SECTION 7. S-L 18.07 of the administrative code is repealed and recreated to read:

S-L 18.07 MAXIMUM TERM. (1) TERM. The term of a mortgage loan may not exceed 30 years commencing with the later of:

(a) The date of closing;

(b) The date of the first contractual monthly principal and interest payment;

(c) The date of any additional advance;

(d) The date of any properly executed loan modification agreement; or

(e) The date of any interest rate increase under the terms of a note permitting or requiring changes in the interest rate.

(2) AMORTIZATION. The rate of amortization on a mortgage loan may vary during the term of the loan, may be negative, and may result in a lump sum payment at maturity.

SECTION 8. S-L 18.08 of the administrative code is repealed.

SECTION 9. S-L 18.09 of the administrative code is repealed and recreated to read:

S-L 18.09 PORTFOLIO LIMITATIONS. (1) LOANS TO ONE BORROWER (a) General. The aggregate of an association's loans to any one borrower may not exceed the net worth of the association or 5% of the association's total assets, whichever is less..

(b) Development loans. The aggregate of development loans to any one borrower may not exceed 25% of the association's net worth.

(2) SINGLE OR RELATED LOANS. Subject to sub (1)(b), no single loan, or group of related loans, to one borrower may exceed 50% of the association's net worth.

(3) CALCULATION. For purposes of this subsection, the unpaid balance of a loan is deemed to remain a loan to the original borrower, unless the borrower conveys title to the mortgaged property to another person who assumes the payment of the mortgage, and the association releases the original borrower of liability for repayment of the loan. Participating interests sold are not included when calculating limitations under this section.

SECTION 10. S-L 18.11 of the administrative code is repealed.

SECTION 11. S-L 18.14 of the administrative code is renumbered S-L 18.11 and S-L 18.11(1) (intro.) and (2)(a) as renumbered, are amended to read:

S-L 18.11 (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) of the code~~ if:

(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.

(2) (a) An appraisal made in accordance with s. ~~S-L 18.23, of the code~~ 18.15.

SECTION 12. S-L 18.13 of the administrative code is created to read:

S-L 18.13 LOAN TRANSACTIONS WITH ASSOCIATIONS. An association may, under s. 215.13(21) and (22), Stats., purchase from or sell to another association loans or interest in loans.

SECTION 13. S-L 18.17 of the administrative code is repealed.

SECTION 14. S-L 18.19 of the administrative code is repealed and recreated to read:

S-L 18.19 PARTICIPATION LOANS; DOCUMENTATION. Each participation loan shall be evidenced by an agreement which establishes the terms of the participation, including the manner of sharing any losses which may occur and which is executed by the participation originator and purchaser.

SECTION 15. S-L 18.21 of the administrative code is repealed.

SECTION 16. S-L 18.23 of the administrative code is renumbered S-L 18.15.

SECTION 17. S-L 18.25 to S-L 18.29 of the administrative code are repealed.

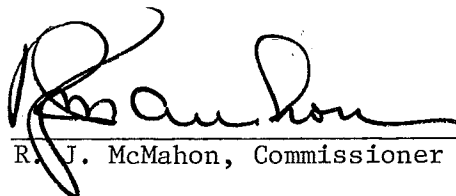
SECTION 18. S-L 18.31 of the administrative code is renumbered S-L 18.17 and S-L 18.17(1)(c), as renumbered, is amended to read:

S-L 18.17(1)(c) Provide additional collateral of the kind described in ~~section~~ s. S-L 18.05(4)(c) 1 or such other additional collateral ~~as may be~~ which is acceptable to the commissioner.

SECTION 19. S-L 18.33 of the administrative code is renumbered S-L 18.20.

SECTION 20. EFFECTIVE DATE. This order takes effect on the first day of the month following its publication in the Wisconsin administrative register as provided under s. 227.026(1)(intro.), Stats.

Dated: March 9, 1982



R. J. McMahon, Commissioner