

ance of the loan exceeds 80% of the appraised value of the real estate security:

(a) Title to the real estate securing the loan has been conveyed to another person, or

(b) The borrower ceases to be an occupant of the property.

History: Cr. Register, January, 1964, No. 97, eff. 2-1-64; am. (6) (c). Register, April, 1964, No. 100, eff. 5-1-64.

S-L 18.11 Mortgage loans secured by improved real estate and savings accounts of savings and loan associations. (1) Any association may make mortgage loans on the security of improved real estate, subdivision-type property and improved lots excluded, and the withdrawal value of savings and loan association savings accounts, and may exceed the maximum loan ratios prescribed in section 215.21 (6) (b), Wis. Stats. and Wis. Adm. Code sections S-L 18.02 (1) and (2), when the excess of such mortgage loan is further secured by the withdrawal value of savings accounts of any state-chartered or federally-chartered savings and loan association doing business in Wisconsin, or the withdrawal value of savings accounts of any savings and loan association located outside of the state of Wisconsin, whose members' accounts are insured by the Federal Savings and Loan Insurance Corporation.

(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) The savings accounts, pledged as additional collateral to any mortgage loan made pursuant to the provisions of this section, may be the property of any person and may be accepted at full withdrawal value.

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

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

(6) No additional advances may be made on any mortgage loan, made pursuant to the provisions of this section, while the collateral trust agreement is in force.

(7) Any additional advances made after the termination of the collateral trust agreement, shall be made in such amount so as to limit the borrower's total unpaid loan balance to the maximum loan ratios cited in subsection (1) above.

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

S-L 18.12 Participation loans. (1) **DEFINITIONS.** The definitions in this section apply unless the context clearly indicates otherwise, that is to say: (a) "Federal savings and loan association" means a savings and loan association, organized pursuant to an act of congress, entitled, "Home Owners Loan Act of 1933".

(b) "Insured bank" means a banking institution whose deposits are insured by the Federal Deposit Insurance Corporation.

(c) "Insured, state-chartered savings and loan association" means a savings and loan association, organized under ch. 215, Wis. Stats., whose members' savings accounts are insured by the Federal Savings and Loan Insurance Corporation.

(d) "Lenders" means:

1. Federal savings and loan associations.
2. Insured banks.
3. Insurance companies licensed to do business in this state.
4. Insured, state-chartered savings and loan associations.
5. Non-insured, state-chartered savings and loan associations.
6. Other instrumentalities or corporations owned wholly or in part by this state or the United States.

7. Tax exempt organizations operating under subsection (a) of section 501 of the Internal Revenue Code as now or hereafter in effect.

(e) "Non-Insured, state-chartered savings and loan association" means a savings and loan association organized under ch. 215, Wis. Stats., whose members' savings accounts are not insured by the Federal Savings and Loan Insurance Corporation.

(f) "Originating association" means a savings and loan association that has made a mortgage loan on improved real estate and sold a participating interest therein to a lender as defined in subsection (1) (d) above.

(g) "Originating lender" means a lender, as defined in subsection (1) (d) above, that has made a mortgage loan on improved real estate and sold a participating interest therein to another lender.

(h) "Participation loan" means a mortgage loan secured by improved real estate, originated by a lender, as defined in subsection (1) (d) above, of which a participating interest has been sold to another lender, as defined in subsection (1) (d) above, under the terms and conditions of a participation loan agreement and evidenced by a participation loan certificate.

(i) "Purchasing association" means a savings and loan association that has purchased a participating interest in a mortgage loan on improved real estate from a lender defined in subsection (1) (d) above.

(j) "Purchasing lender" means a lender, as defined in subsection (1) (d) above, that has purchased a participating interest in a mortgage loan on improved real estate from a lender defined in subsection (1) (d) above.

(2) ORIGINATION OF MORTGAGE LOANS AND SALES OF PARTICIPATING INTERESTS THEREIN BY INSURED, STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS.

Note: Section 215.21(2), Wis. Stats., defines the lending area of an association as that area within a radius of 100 miles of the association's office. For the purposes of this subsection, every association whose members' accounts are insured by the Federal Savings and Loan Insurance Corporation, shall also be subject to the definition and restrictions of section 561.22 of the Rules and Regulations for Insurance of Accounts, captioned, "Normal Lending Territory".

(a) Any insured, state-chartered savings and loan association may originate a mortgage loan on any type of improved real estate, as defined in Wis. Adm. Code, section S-L 18.01 (3), (4), (5), (6) and (7), said real estate being located not more than 50 miles from its

office, and within 100 miles of the purchasing lender's office and sell a participating interest therein to any lender as defined in subsection (1) (d) above. The originating association must retain at least a 25% interest in such loan.

(b) Except as provided otherwise in par. (c), any insured, state-chartered savings and loan association may originate a mortgage loan on any type of improved real estate, as defined in section S-L 18.01 (3), (4), (5), (6) and (7), said real estate being located more than 50 miles but less than 100 miles from its office and within 100 miles of the purchasing lender's office, and sell a participating interest therein to:

1. Any insured, state-chartered savings and loan association;
2. Any federal savings and loan association;
3. Any insured bank; or
4. Any tax exempt organization operating under section 501 (a) of the Internal Revenue Code.

The originating association must retain at least a 25% interest in such loan.

(c) Any insured, state-chartered savings and loan association may originate a mortgage loan on any type of improved real estate, as defined in section S-L 18.01 (3) (4) (5) (6) and (7), said real estate being located more than 50 miles but less than 100 miles from its office, and may, with prior written approval of the Federal Savings and Loan Insurance Corporation sell a participating interest therein to:

1. Any non-insured, state-chartered savings and loan association;
2. Any insurance company licensed to do business in this state; or
3. Any other instrumentality or corporation owned wholly or in part by this state or the United States.

The originating association must retain at least a 50% interest in such loan.

(d) Any insured, state-chartered savings and loan association may originate a loan on "Home-Type" improved real estate as defined in section S-L 18.01 (3) (4) (5) and (6), located within 100 miles of its office and sell a participating interest only to an insured, state-chartered savings and loan association or a federal savings and loan association, provided that the real estate security of such loan is beyond the normal lending territory of the purchasing association. The originating association must retain at least a 50% interest in such loan.

(3) PURCHASES OF PARTICIPATING INTERESTS IN MORTGAGE LOANS BY INSURED, STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS.

Note: Section 215.21(2), Wis. Stats., defines the lending area of an association as that area within 100 miles of the association's office. For the purposes of this subsection, every association whose members' accounts are insured by the Federal Savings and Loan Insurance Corporation, shall also be subject to the definition and restrictions of section 561.22 of the Rules and Regulations for Insurance of Accounts, captioned, "Normal Lending Territory".

(a) Any insured, state-chartered savings and loan association may purchase a participating interest in a mortgage loan from any lender, as defined in subsection (1) (d) above, said real estate being located within the normal lending territory of the purchasing association, and of any improved type as defined in Wis. Adm. Code section S-L 18.01 (3), (4), (5), (6) and (7). The originating lender must retain at least a 25% interest in such loan.

(b) Any insured, state-chartered savings and loan association may purchase a participating interest in a mortgage loan, secured by real estate located outside of its lending area and consisting of "Home-Type" improved real estate as defined in section S-L 18.01 (3) (4) (5) and (6), from an insured, state-chartered savings and loan association or federal savings and loan association, provided that the real estate security of said mortgage loan is located within the lending area of the originating association. The originating association must retain at least a 50% interest in such loan.

(4) ORIGINATION OF MORTGAGE LOANS AND SALE OF PARTICIPATING INTERESTS THEREIN BY NON-INSURED, STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS. Any non-insured, state-chartered savings and loan association may originate a mortgage loan on any type of improved real estate, as defined in section S-L 18.01 (3), (4), (5), (6) and (7), said real estate being located within its 100 mile lending area, and sell a participating interest therein to any lender as defined in subsection (1) (d) above. The originating association must retain at least a 25% interest in such loan.

(5) PURCHASES OF PARTICIPATING INTERESTS IN MORTGAGE LOANS BY NON-INSURED, STATE-CHARTERED SAVINGS AND LOAN ASSOCIATIONS. (a) Any non-insured, state-chartered savings and loan association may purchase a participating interest in a mortgage loan from any lender, as defined in subsection (1) (d) above, said improved real estate being of any type, as defined in section S-L 18.01 (3), (4), (5), (6) and (7), located within 100 miles of its office and within 100 miles of the purchasing lender's office. The originating lender must retain at least a 25% interest in such loan.

(b) Any non-insured, state-chartered savings and loan association may purchase a participating interest in a mortgage loan from any lender, as defined in subsection (1) (d) above, except an insured, state-chartered savings and loan association or a federal savings and loan association, said improved real estate being located more than 100 miles from its office and within 100 miles of the originating lender's office and consisting of "Home-Type" property as defined in sections S-L 18.01 (3) (4) (5) and (6). The originating lender must retain at least a 50% interest in such loan.

(6) JOINT ORIGINATIONS. (a) If the originating lender is an insured, state-chartered savings and loan association, and enters into a participation agreement with one or more purchasing lenders, who are also insured savings and loan associations, regarding a loan commitment prior to the closing of the loan and the furnishing of funds by the participants at the time the loan is closed or processed, the originating lender must retain at least a 50% interest in such loan. The restrictions as to the location of the real estate security and the type of real estate security, as set forth in subsections (2) and (3) above, shall apply to joint originations.

(b) If the originating lender is a non-insured, state-chartered savings and loan association, and enters into a participation agreement with one or more lenders, as defined in subsection (1) (d) above, except an insured, state-chartered savings and loan association or a federal savings and loan association, regarding a loan commitment prior to the closing of the loan and the furnishing of funds by the participants at the time the loan is closed or processed, the originating

lender must retain at least a 50% interest in such loan. The restrictions as to the location of the real estate security and type of real estate security, as set forth in subsections (4) and (5) above, shall apply to joint originations.

(7) MORTGAGE AND MORTGAGE NOTES OF PARTICIPATION LOANS. The mortgage and mortgage note of any participation loan shall contain only the name of the originating association or other originating lender as the "Mortgagee" and shall be retained by said originating association or other originating lender along with the other related documents.

(8) PARTICIPATION LOAN AGREEMENT. Each participation loan shall be evidenced by a participation loan agreement, executed and signed by both, the originating lender (originating association) and the purchasing lender (purchasing association). The participation loan agreement shall be in such form as determined by the attorneys of the participants concerned.

(9) PARTICIPATION LOAN CERTIFICATE. Each participation loan shall be evidenced by a participation loan certificate, executed and signed by both, the originating lender (originating association) and the purchasing lender (purchasing association). The participation loan certificate must contain sufficient information to properly identify the security of such transaction.

(10) MORTGAGE LOAN DOCUMENT FILES OF ORIGINATING ASSOCIATION. To evidence the sale of a participating interest in a mortgage loan, the loan document file of the originating association shall, in addition to the note, mortgage and other related papers, contain signed copies of the participation loan agreement and the participation loan certificate of the other purchasing lender or lenders.

(11) MORTGAGE LOAN DOCUMENT FILES OF PURCHASING ASSOCIATION. To evidence the purchase of a participating interest in a mortgage loan, the loan document file of the purchasing association shall contain the signed copies of the participation loan agreement and the participation loan certificate of the originating lender.

(12) AGGREGATE. The aggregate of the participation loans, consisting of the retained portion of those originated and participating interests purchased from other lenders, shall not exceed 40% of the association's total assets, subject to the lending area restriction of 20% of loans on real estate situated more than 50 miles from the association's office as described in Wis. Adm. Code, section S-L 18.04. The provision of this subsection shall not apply to FHA or VA loans.

(13) INELIGIBLE SECURITY FOR PARTICIPATION LOANS. Subdivision loans and loans to builders on fully-improved residential lots, as defined in Wis. Adm. Code sections S-L 18.01 (8) and (9), shall not be eligible real estate security for participation loans.

(14) SALE OF PARTICIPATING INTERESTS IN MORTGAGE LOANS. The sale of a participating interest in any mortgage loans shall be without recourse.

(15) 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 con-

form to other applicable standards, requirements and restrictions as contained in ch. 215, Wis. Stats., and the Savings and Loan section (S-L) of the Wis. Adm. Code.

(16) **PARTICIPATION LOANS AS JOINT MORTGAGEE WITH OTHER LENDERS.** (a) Any association may make joint loans with other lenders. Each joint mortgage shall be evidenced by a single mortgage securing the mortgage notes held by the mortgagees participating in such joint venture.

(b) All joint mortgage loans shall conform to all other requisites pertaining to location of real estate security, type of real estate security and maximum loan ratio to appraisal value.

(c) At the time of closing a joint mortgage loan, the participating lenders shall execute an agreement setting forth the following:

1. The lender who will collect escrow payments for taxes and insurance and charged with the responsibility of determining that taxes and insurance premiums are paid.

2. The person or persons delegated with the responsibility of providing the necessary insurance coverage, and the name of the lender who will hold such insurance policies.

3. The collection of monthly payments from the mortgagor and the pro-rata remittance thereof to the participating lenders.

4. Conditions precedent for foreclosure proceedings.

5. Such other matters necessary to protect the interests of all lenders participating in the joint mortgage.

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.

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 purposes described in Subsec. 215.21 (16), Wis. Stats., shall not exceed 20% 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

Register, November, 1968, No. 155