

Chapter S-L 18

MORTGAGE LOANS

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Note: Chapter S-L 18 as it existed on June 30, 1976 was repealed and a new chapter S-L 18 was created effective July 1, 1976.

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

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

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

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

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

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

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

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

(d) Land used in connection with a farm operated for profit.

(6) **COMMISSIONER.** "Commissioner" means the commissioner of savings and loan or his authorized representative.

(7) **DIRECT REDUCTION LOAN.** "Direct reduction loan" means a mortgage loan which the borrower is required to repay in monthly payments of interest and principal unless otherwise provided in S-L 18.07 (1) (c), and may be evidenced by a single mortgage note written for the full term of the loan or a series of renewable mortgage notes.

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

(9) **HOME-TYPE PROPERTY.** "Home-type property" means a structure used only for residential purposes, together with the land incidental to its use, and includes property used as a dormitory, nursing home or home for the aging.

(10) **INSURED INSTITUTION.** "Insured institution" means an institution insured by the federal savings and loan insurance corporation, the federal deposit insurance corporation or other insuring body approved by the commissioner.

(11) **MORTGAGE INSURANCE.** "Mortgage insurance" means a policy of insurance indemnifying a lender in whole or in part against losses resulting from a borrower's failure to make contractual payments as specified in a mortgage note.

(12) **NORMAL LENDING AREA.** "Normal lending area" means that area within a 100 mile radial distance from an office of the association originating a loan.

(13) **PARTICIPATING INTEREST.** "Participating interest" means a mortgagee's interest in a participation loan.

(14) **PARTICIPATION ORIGINATOR.** "Participation originator" means a person dividing a loan into participating interests for sale to others.

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

(16) **"Personal lot"** means a vacant lot suitable for the construction of a dwelling unit and purchased by an individual as a site for a personal residence.

(17) **STATUTES.** "Statutes" mean the Wisconsin Statutes.

(18) **STRAIGHT LOAN.** "Straight loan" means any mortgage loan which is not a direct reduction loan made in accordance with S-L 18.07 (1).

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

(20) **"Subdivision loan"** means a loan made on the security of subdivision property, and includes a loan made to acquire the land to be developed.

(21) **VACANT LAND.** "Vacant land" means any land which is not a personal lot, a builder's lot, subdivision property, home-type property, combination-home-and-business-type property or commercial-type property.

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

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

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; r. and recr. (2), (16), (19) and (20), Register, May, 1978, No. 269, eff. 6-1-78.

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

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

(3) **CHAPTER 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 chapter 219 of the statutes.

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

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

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

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

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

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

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

(e) *Subdivision property.* A loan made on the security of subdivision property may not exceed 75% of the value of the real estate security as of the completion of the property's development and improvement.

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

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

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

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

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

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

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

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

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

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

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2) (d) and (3) (intro.) and (a), Register, May, 1978, No. 269, eff. 6-1-78.

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The date of any additional advance;

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

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

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

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

(c) *Flexible payment direct reduction loans.* In the case of a loan made to purchase or construct a single family dwelling to be occupied by

the borrower as his primary residence, monthly payments may for a period of not more than 5 years be in an amount less than those required under paragraph (b) provided:

1. The monthly payments during such period are sufficient to pay interest due for the payment period;
2. The remaining monthly payments will at all times be sufficient to retire the loan within the balance of the loan term; and
3. The loan is written for a term of at least 10 years.

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

(b) *Extensions.* A loan subject to this paragraph may be extended only if:

1. The borrower makes a request to the association for an extension;
2. All taxes on the property and all contractual payments on the loan are current; and
3. The borrower and the association execute a written extension agreement.

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

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

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

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

1. Straight loans backed by a government agency in the manner described in section S-L 18.05 (3) (b).
2. Straight loans secured by single family owner occupied home-type property, if the amount of the loan does not exceed 60% of the appraised value of such security.

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

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

(4) **LOANS OUTSIDE THE ASSOCIATION'S NORMAL LENDING AREA.** The aggregate of an association's loans secured by real estate located outside the association's normal lending area, excluding participating interests

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purchased under section S-L 18.19 of the code, may not exceed 10% of the association's total assets.

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

(6) **BUILDER'S LOT LOANS.** The aggregate of an association's loans secured by builder's lots may not exceed a total of 50% of the association's net worth.

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

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

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

(9) **LOANS TO ONE BORROWER.** (a) *Aggregate loans.* 1. The aggregate of an association's loans to any one borrower, excluding loans backed by a government agency in the manner described in section S-L 18.05 (3) (b) of the code, may not exceed the net worth of the association or 5% of the association's total assets, whichever is less.

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

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

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

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

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

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

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

**S-L 18.13 Builder's lot loans.** (1) **MAXIMUM TERM.** The term of a loan secured by a builder's lot may not exceed 3 years, but may be extended

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for periods of one year or less in the manner provided in section S-L 18.07 (2) (b) of the code.

(2) **LENDING AREA.** An association may not make or hold any loan secured by a builder's lot located outside the association's normal lending area.

(3) **APPLICATIONS AND CONDITIONS.** (a) *Appraisals.* Before making a loan secured by a builder's lot an association shall obtain an appraisal setting forth the value of each lot.

(b) *Release privileges.* Where a builder's lot loan is secured by more than one lot, no lot may be released from the association's security interest unless the unpaid balance of the loan is 60% or less of the value of the remaining real estate security as appraised under paragraph (a).

(c) *Other required information.* Before making a builder's lot loan an association shall obtain:

1. A survey properly identifying each lot securing the loan.
2. An affidavit executed by the applicant indicating:
  - a. The date on which each lot was or will be purchased, and the cost of each lot to the applicant;
  - b. That the applicant will use the lots as a site for the construction of home-type property, and that such construction is scheduled to begin within 6 months after the loan is made and will be completed within the original term of the loan; and
  - c. If the applicant is a corporation, the names of the corporation's principal officers and stockholders.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (1), Register, May, 1978, No. 269, eff. 6-1-78.

**S-L 18.15 Subdivision loans.** (1) **MAXIMUM TERM.** The term of a subdivision 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.

(2) **LENDING AREA.** An association may not make or hold loans secured by subdivision property located outside the association's normal lending area.

(3) **REQUIREMENTS 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 prior to development.
2. The value of the real estate security upon completion of the proposed development and improvement, including an appraisal of each lot in the tract. Estimates of development and improvement costs shall be supported by data furnished and prepared by a licensed engineer.

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

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(d) *Release privileges.* The association and the borrower shall establish in writing 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 the greater of the following:

1. That percentage of the sale price of the property equal to the loan to value ratio of the association's loan plus 10%; or

2. That percentage of the value of the property as appraised under paragraph (b) 2 equal to the loan to value ratio of the association's loan plus 10%.

(e) *Other required information.* 1. Before making a subdivision loan an association shall obtain:

a. A statement of the applicant 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 development and improvement; and

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