

**Chapter S-L 18**

**MORTGAGE LOANS**

S-L 18.01	Definitions (p. 61)	S-L 18.15	Appraisals (p. 65)
S-L 18.03	Purpose and scope (p. 61)	S-L 18.17	Under-secured loans (p. 66)
S-L 18.05	Maximum loan to value ratios (p. 62)	S-L 18.19	Participation loans (p. 66)
S-L 18.07	Maximum term (p. 63)	S-L 18.20	Discretionary authority retained by the commissioner (p. 66)
S-L 18.09	Portfolio limitations (p. 64)		
S-L 18.11	Development loans (p. 64)		
S-L 18.13	Loan transaction with associations (p. 65)		

Note: Chapter S-L 18 as it existed on June 30, 1976 was repealed and a new chapter S-L 18 was created effective July 1, 1976.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

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; r. (20), renum. (7) to (19) to be (8) to (20), cr. (7), Register, June, 1979, No. 282, eff. 7-1-79; r. and recr., Register, April, 1982, No. 316, eff. 5-1-82.

**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 re-

quirements 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 a loan 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. 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.

(3) **CHAPTER 45 OR 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 Stats.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; am. (2) and (3), Register, April, 1982, No. 316, eff. 5-1-82; am. (2), Register, August, 1983, No. 332, eff. 9-1-83.

**S-L 18.05 Maximum loan to value ratios.** (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.

(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.

(4) **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 sub. (2) is fully covered by mortgage insurance or is fully secured by a combination of mortgage insurance and additional collateral provided under par. (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 reason-

able 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 s. 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.

(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.

**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; r. and recr. (2) (d), r. (2) (e), renum. (2) (f) to be (2) (e), Register, June, 1979, No. 282, eff. 7-1-79; r. and recr. (1) and (2), renum. (3) to be (4), cr. (3), (5) and (6), Register, April, 1982, No. 316, eff. 5-1-82.

**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.

## S-L 18

(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.

**History:** Cr. Register, June, 1976, No. 246, eff. 7-1-76; cr. (1) (b) (intro.), r. (1) (c), renum. (2) to be S-L 18.08, cr. (2), Register, June, 1979, No. 282, eff. 7-1-79; r. and recr., Register, April, 1982, No. 316, eff. 5-1-82.

**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 or 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.

**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; r. and recr. (5), r. (6) renum. (7) to (9) to be (6) to (8), Register, June, 1979, No. 282, eff. 7-1-79; r. and recr., Register, April, 1982, No. 316, eff. 5-1-82.

**S-L 18.11 Development loans.** (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 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) **APPRAISALS AND OTHER DOCUMENTATION.** Before making a development loan an association must obtain:

- (a) An appraisal made in accordance with s. S-L 18.15.
- (b) A statement from the borrower indicating the borrower's intended use of the property. If further improvements must be made to the land to make it suitable for the construction of a dwelling unit and loan proceeds are expected to be used in that development, the statement must include:
  1. A development schedule.
  2. The estimated cost of those improvements.

(3) **RELEASE SCHEDULE.** When a development loan is secured by more than one lot:

(a) The association and the borrower must enter into a written agreement governing the release of individual lots from the association's security interest.

(b) No portion of the qualifying real estate security may be released unless:

1. The association has obtained an appraisal that individually sets forth the value of each developed lot and of any qualifying security remaining to be developed; and

2. The ratio of the unpaid balance of the association's loan to the value of the remaining real estate security will not exceed the applicable maximum loan to value ratio under s. S-L 18.05 of the code.

History: Cr. Register, June, 1979, No. 282, eff. 7-1-79; renum. from S-L 18.14 and am. (1)(intro.) and (2)(a), Register, April, 1982, No. 316, eff. 5-1-82.

**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.

History: Cr. Register, April, 1982, No. 316, eff. 5-1-82.

**S-L 18.15 Appraisals.** (1) **APPROVED APPRAISERS.** (a) Any appraisal of real estate securing loans described in s. 215.21, Stats., may be performed only by an individual who the board of directors of the association has a reasonable basis to believe is qualified to make appraisals upon which the association may rely. An association may not accept an appraisal pertaining to loans described in s. 215.21, Stats., unless the association's board of directors has by resolution approved the qualifications of the appraiser to appraise the type of property securing the particular loan and has authorized him or her to make appraisals on the association's behalf. Appraisals of real estate securing loans described in s. 215.21, Stats., may not be made by an appraisal committee of the lending association.

(b) An association may not accept an appraisal made by or at the direction of:

1. Any person having interest in the real estate appraised; or
2. Any person whose compensation is in any way affected by approval or denial of the loan.

(2) **APPRAISAL REPORTS; CONTENTS.** Each appraisal report must be in writing signed by the appraiser. If an appraisal is made by an appraisal committee, the report must be signed by all committee members participating in the appraisal. No committee member may participate in an appraisal unless he has personally inspected the property. An appraisal report must contain such supporting information as is necessary to establish the reasonable market value of the property.

(3) **INDEPENDENT REAPPRAISALS AND DESIGNATION OF INDEPENDENT APPRAISERS AT THE DIRECTION OF THE COMMISSIONER.** (a) If the commissioner has probable cause to believe that an association's appraisals may not reasonably reflect the value of the property securing its loans or that the association's appraisal reports or procedures are such that the value of the security cannot be adequately determined, he may require reappraisals to be made by independent appraisers designated by the commissioner.

## S-L 18

(b) Appraisals required under this subsection shall be at the expense of the association.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; renum. from S-L 18.23, Register, April, 1982, No. 316, eff. 5-1-82; am. (1) (a), Register, November, 1986, No. 371, eff. 12-1-86.

**S-L 18.17 Under-secured loans. (1) REMEDIAL ACTION REQUIRED.** If the commissioner determines that, as a result of events occurring after a mortgage has been made, the current market value of security for a mortgage loan is less than the outstanding balance of the loan, the association shall, at the direction of the commissioner:

(a) Reduce the book value of the loan to the current market value of the security; or

(b) Establish a valuation reserve reflecting the difference between the outstanding balance of the loan and the current market value of the security; or

(c) Provide additional collateral of the kind described in s. S-L 18.05 (4) (c) or such other additional collateral which is acceptable to the commissioner.

(2) **NATURE OF VALUATION RESERVES.** A valuation reserve established under this section may be funded by a charge to legal reserves, undivided profits, or current earnings, but may not be included as part of the association's net worth.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; renum. from S-L 18.31 and am. (1)(c), Register, April, 1982, No. 316, eff. 5-1-82; am. (1) (c), Register, February, 1983, No. 326, eff. 3-1-83.

**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.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; r. and recr., Register, April, 1982, No. 316, eff. 5-1-82.

**S-L 18.20 Discretionary authority retained by the commissioner.** The commissioner may, for good and sufficient reasons, limit, restrict or prohibit investments by an association in any type, category or classification of loan governed by this chapter.

History: Cr. Register, June, 1976, No. 246, eff. 7-1-76; renum. from S-L 18.33, Register, April, 1982, No. 316, eff. 5-1-82.