

## Chapter S-L 4

## MORTGAGE LOANS

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**S-L 4.01 Appraisals on home-type and combination-home-and-business type properties.** (1) **BY WHOM MADE.** (a) All improved real estate located outside of Milwaukee county and the towns of Brookfield and New Berlin, Waukesha county, offered as security for mortgage loans, whether with existing structures or upon which new construction is anticipated, shall be appraised by the association's appraisal committee, except that any eligible real estate offered as security for a loan in excess of \$50,000 shall be appraised by appraisers approved by the commissioner.

(b) All improved real estate located in Milwaukee county and in the towns of Brookfield and New Berlin in Waukesha county, offered as security for mortgage loans, whether with existing structures or upon which new construction is anticipated, shall be appraised by an independent appraiser approved by the commissioner operating through an approved appraisal bureau also approved by him.

(2) **BASIS OF APPRAISALS.** All appraisals shall be based upon reasonable market value of the improved real estate pledged as collateral security.

(3) **MAXIMUM LOAN RATIO TO APPRAISED VALUE.** (a) Except as otherwise provided in sections 215.22 (5), 215.22 (6) (b) and 215.22 (10), Wis. Stats., and Wis. Adm. Code sections S-L 4.05 (3), 4.08 (3) and 4.09 (2), no loan shall exceed 80% of the appraised value of the improved real estate pledged as collateral security, provided that said security consists of either a home-type property or a combination home-and-business-type property.

(b) The maximum amount loaned on any improved real estate shall be based solely on the value of improved real estate security, exclusive of the value of any type or kind of additional collateral that may be pledged to such loan, except when granting loans under permissive authority of Wis. Adm. Code section S-L 4.09 (1).

(4) **DISPENSING WITH INDEPENDENT APPRAISAL REPORTS.** Appraisals by independent appraisers, as required by subsection (1)(b) above, may be dispensed with when the mortgage loan does not exceed 60% of the appraised value of the improved real estate as determined by the association's appraisal committee.

(5) **V.A. OR F.H.A. APPRAISALS.** Official appraisals, rendered either by the veterans' administration or the federal housing administration,

may be used in lieu of any of the foregoing for insured, guaranteed or conventional loans provided such action is in compliance with the by-laws of the association.

**History:** 1-2-56; r. and recr. (4), Register, January, 1959, No. 37, eff. 2-1-59; r. and recr. (3) (a) Register, June, 1959, No. 42, eff. 7-1-59; am. (3) (a) and (3) (b), Register, June, 1961, No. 66, eff. 7-1-61.

**S-L 4.02 Opinions of title. (1) OPINIONS OF TITLE FROM ABSTRACTS.**

(a) 1. 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 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.

2. 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.

3. Immediately after loan closing, all deeds, mortgages, satisfactions and releases shall be recorded, and from the extension of the abstracts, describing the mortgaged premises, 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.

(b) On all real estate acquired by the association, the association's attorney shall examine such abstracts and in writing advise the association that it does have good and merchantable title.

(2) **TITLE GUARANTY POLICIES; WHEN ACCEPTABLE.** (a) 1. 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 preparation and closing of the loan.

2. 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 preliminary reports, letters, binders or commitments to insure, may disburse loan proceeds.

3. Immediately after loan closing, all deeds, mortgage, satisfactions and releases shall be recorded, and title guaranty policies, insuring titles of borrowers and first liens to the association shall be obtained within 2 months on conventional loans and within 1 year on construction loans unless extended pursuant to section 215.22 (5) (b), Wis. Stats. 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.

(b) In lieu of opinions of title secured from abstracts, title guaranty policies, guaranteeing good and merchantable title in the name of the association, will be acceptable on real estate acquired.

(3) **FILING OF OPINIONS OF TITLE AND TITLE GUARANTY POLICIES.** Written opinions of title and title guaranty policies shall be placed in the files with the other mortgage papers or the papers relative to association real estate to which they pertain.

**History:** 1-2-56; r. and recr. (1)(a) and (2)(a), Register, January, 1959, No. 37, eff. 2-1-59.

**S-L 4.03 Types of real estate unacceptable as mortgage loans security.** No savings and loan association shall, without the consent of the commissioner, make a mortgage loan on any real estate where any one of the following conditions exists:

(1) Where access to the real estate can only be obtained by means of an easement or otherwise over other real estate not pledged as security to said loan.

(2) Where said real estate does not abut on a street or lane. An alley shall not be considered as a street or lane.

(3) Where real estate is located to the rear of another parcel of real estate owned by a party or parties other than the owner of the real estate taken as security for the loan.

**S-L 4.04 Construction loans.** Proceeds of a loan made for the purpose of meeting the cost of constructing a building and monies deposited with an association by a 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, subcontractor or material man furnishing labor and material on the property pledged as security for a loan.

**S-L 4.05 Mortgage loans secured by any type of improved real estate.** (1) **TYPES OF ELIGIBLE IMPROVED REAL ESTATE SECURITY.** Any association granting mortgage loans under the permissive authority of section 215.22 (10), Wis. Stats., may include the following types of improved real estate as collateral security in the 15% aggregate of such loans:

(a) Home-type properties, when the loan exceeds \$50,000;

(b) Combination-home-and-business-type properties, when the loan exceeds \$50,000;

(c) Other-than-home-type properties, including:

1. Properties used for manufacturing purposes;
2. Theaters;
3. Public halls;
4. Public garages;
5. Churches;
6. School buildings;
7. Hotels.

(2) **INELIGIBLE REAL ESTATE SECURITY.** No mortgage loan, made under the permissive authority of section 215.22 (10), Wis. Stats., can be secured by unimproved real estate, unless such real estate is pledged as additional collateral security with improved real estate. The provisions of Wis. Adm. Code section S-L 4.01 (3) (b) are applicable to unimproved real estate pledged as additional collateral security, and also apply when granting loans under permissive authority of Wis. Adm. Code section S-L 4.09 (1).

(3) **MAXIMUM LOAN RATIO TO APPRAISED VALUE.** Except as otherwise provided in section 215.22 (5), Wis. Stats. and Wis. Adm. Code section S-L 4.09 (2), no loan granted pursuant to section 215.22 (10), Wis. Stats., shall exceed 70% of the appraised value of the improved real estate offered as collateral security as fixed by an approved appraiser operating through an approved appraisal bureau or an appraiser approved by the Commissioner. The appraised value shall be the reasonable market value of the improved real estate pledged as collateral security.

(4) **OTHER STATUTORY PROVISIONS APPLICABLE.** (a) Each loan made pursuant to section 215.22 (10), Wis. Stats., is also subject to the provisions of section 215.22 (6) (a), Wis. Stats., and Wis. Adm. Code section S-L 4.07, relating to the maximum amount of loans to any one borrower.

(b) Each loan made pursuant to section 215.22 (10), Wis. Stats., and which is in excess of \$50,000 is also subject to the provisions of section 215.22 (6) (c), Wis. Stats., which limits the aggregate of loans in excess of \$50,000 to 15% of the total assets of the association.

(c) Each loan made pursuant to section 215.22 (10), Wis. Stats., on the straight mortgage plan is also subject to the provisions of section 215.22 (5), Wis. Stats., which limits the amount of loan to appraised values on existing structures (depending upon the term of the loan), and the aggregate of straight mortgage loans to 15% of the share capital of the association.

(5) **PROCEDURE AFTER 15% AGGREGATE OF MORTGAGE LOANS, SECURED BY ANY TYPE OF IMPROVED REAL ESTATE, IS REACHED.** (a) After an association has used up 15% of its assets for the making of mortgage loans pursuant to section 215.22 (10), Wis. Stats., the mortgage lending activity of the association shall be confined solely to loans on improved real estate consisting of home-type or combination-home-and-business type of properties.

(b) After an association has used up 15% of its assets for the making of mortgage loans pursuant to section 215.22 (10), Wis. Stats., any loan in excess of \$50,000, secured by home-type property or combination-home-and-business-type property, shall be subject to the 65% appraisal limitation of section 215.22 (6) (b), Wis. Stats.

(c) Whenever the aggregate of mortgage loans, made pursuant to the provisions of section 215.22 (10), Wis. Stats., is less than 15% of the total assets of the association, as a result of loan repayments, then the association may resume the making of mortgage loans on any type of improved real estate, subject to the provisions of this section.

**History:** 1-2-56; am. (2) and (3), Register, June, 1961, No. 66, eff. 7-1-61.

**S-L 4.06 Renewal of straight mortgage loans.** Any savings and loan association renewing or extending straight mortgage loans, pursuant to the provisions of section 215.22 (5), Wis. Stats., shall follow the following procedure:

(1) The borrower shall request in writing his desire for an extension of his mortgage. Such application shall identify the mortgage sought to be renewed or extended and shall state the additional time desired, and shall be signed by the borrower.

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(2) The board of directors shall formally approve or disapprove such application, stating the time granted for which the mortgage is renewed or extended, and the rate of interest to be paid.

(3) If the board of directors shall approve such application, 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.

**S-L 4.07 Maximum amount of loans to one borrower.** The aggregate of loans to any one borrower shall consist of any loans made directly to him and to any corporation of which he is an officer, director or shareholder. The total amount of such loans shall be subject to the limitations prescribed in section 215.22 (6) (a), Wis. Stats.

**S-L 4.08 Loans in excess of 80% of appraised value.** (1) **TYPE OF ELIGIBLE REAL ESTATE SECURITY.** Any association may exceed the 80% maximum loan ratio to appraised value of the improved real estate security, as imposed by Wis. Adm. Code section S-L 4.01 (3), when such loans are secured by existing improved real estate not exceeding 20 years of age consisting of either, single family residential units or 2 family residential units.

(2) **WHEN PERMITTED.** Loans may be made pursuant to the permissive authority of this section when the aggregate of the association's general reserves and undivided profits is equal to or in excess of 5% of the share capital.

(3) **MAXIMUM LOAN RATIO.** No loan, made pursuant to the provisions of this section on eligible real estate 20 years or less in age, shall exceed 90% of the appraised value of the improved real estate security, or 90% of the purchase price, whichever is lower.

(a) The maximum loan on a single family residential unit shall in no event exceed \$22,500.

(b) The maximum loan on 2 family residential units shall in no event exceed \$27,900.

(c) No additional advances, under the open-end provisions of the mortgage instrument, shall be made while the unpaid balance of the loan exceeds 80% of the appraised value.

(d) Any additional advance, which may be granted after the loan balance is less than 80% of the appraised value, shall in no event increase the borrowers total unpaid debt in excess of 80% of the appraised value as determined when the original loan was granted.

(4) **AGGREGATE OF LOANS IN EXCESS OF 80% OF APPRAISED VALUE.**

(a) The aggregate of all loans in excess of 80% of the appraised value of the improved real estate security shall not exceed 10% of the share capital of the association.

(b) Whenever the aggregate of mortgage loans, made pursuant to the provisions of this section, is less than 10% of the share capital of the association, as a result of loan repayments, the association may then resume granting loans under the provisions of this section.

(c) Whenever the unpaid balance of any loan, granted under the provisions of this section, is reduced to 80% of the appraised value of the improved real estate security, then such loan is removed from the 10% aggregate of such loans described in par. (a) above.

(5) MANDATORY ADDITIONAL SECURITY. (a) That portion of any loan in excess of 80% of the appraised value of the improved real estate security shall be further secured by such additional acceptable collateral, as defined in par. (c) below, or mortgage insurance, or both, as may be determined by the board of directors of the association. Nothing in this subsection shall be deemed to prevent any association from demanding that borrowers further secure their loans with additional collateral or mortgage insurance, or both, in such percentages or amounts as determined and approved by the board of directors. The term, mortgage insurance, as used herein, shall be defined as insurance which shall indemnify the association against loss or default of the borrower's contractual payments as specified in the mortgage note.

(b) Incumbered improved real estate, vacant lots and vacant lands are not eligible as additional collateral for loans granted pursuant to the provisions of this section.

(c) Additional collateral, acceptable for loans made pursuant to the provisions of this section, may consist of:

1. The cash surrender value of a policy of insurance on the life of any person who is a party to or responsible for the payment of the mortgage note.

2. United States government negotiable securities, "E" bonds excluded.

3. Bonds, notes or other evidences of indebtedness which are a general obligation of any city, town, village, county or school district in this state.

4. Shares of state-chartered and federally-chartered savings and loan associations, doing business in this state, including shares of mortgagee association.

5. Shares of savings and loan associations, located outside of the state of Wisconsin, which are insured by the Federal Savings and Loan Insurance Corporation.

(d) Personal guarantors on the mortgage note are not considered as additional collateral to loans granted pursuant to the provisions of this section.

(6) OTHER REQUISITES. No loan in excess of 80% of the appraised value of the improved real estate security shall be made unless the following conditions are met:

(a) That no part of the single family residence or the 2 family residence is to be used for business purposes.

(b) That the parcel of land on which the single family residence or the 2 family residence is situated has no other residential, combination-home-and-business, or other-than-home type properties located upon it.

(c) That the association obtain a signed statement from the applicant borrower showing that:

1. The purpose of the loan is to purchase a home.

2. The entire proceeds of the loan will be used only to complete the purchase of a home.

3. The property, if a single family residence, being purchased, is or will be occupied by the applicant borrower as a dwelling.

4. One of the residential units of a 2 family residence, which is being purchased is or will be occupied by the applicant borrower as a dwelling.

(d) That the association obtain a duplicate copy of a purchase agreement, executed by both, the vender and applicant borrower, showing:

1. The purchase price of the improved real estate security.
2. The items comprising such purchase price.
3. The approximate year in which the house was constructed.

(e) That the association, prior to loan approval, secured a written credit report on the applicant borrower to determine his credit standing and his financial ability to undertake and pay off the obligation in accordance with the terms of the mortgage note.

(f) The applicant borrower, in addition to the contractual payment of interest and principal, agrees to pay the association monthly in advance an amount sufficient to take care of 1/12th of the last known annual real estate taxes, and 1/12th of the annual hazard insurance premiums.

(7) **FORFEITURE PROVISION.** The board of directors of an association may declare a loan, made pursuant to the provisions of this section, due and payable and commence legal proceedings to enforce collection, whenever any of the following conditions exist while the unpaid balance of the loan exceeds 80% of the appraised value of the improved real estate security:

- (a) Title to the real estate securing that loan has been conveyed to another person, or
- (b) The borrower ceases to be an occupant of the property.

**History:** Cr. Register, June, 1959, No. 42, eff. 7-1-59; am. (3) (a) and (3) (b), Register, June, 1961, No. 66, eff. 7-1-61.

**S-L 4.09 Mortgage loans secured by improved real estate and shares of savings and loan associations.** (1) Any association may make mortgage loans which exceed the maximum loan ratios prescribed in subsections 215.22 (6) (b) and 215.22 (10), Wis. Stats., and Wis. Adm. Code subsections S-L 4.01 (3) (a) and (b) and S-L 4.05 (3), when the excess portion of such mortgage loan is further secured by participation value of shares of any state-chartered or federally-chartered savings and loan association doing business in Wisconsin or the participation value of shares of any savings and loan association, located outside of the state of Wisconsin, whose members' share 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 and loan shares, 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 purchase value.

(4) Upon proper assignment of the pledged shares, a collateral trust agreement shall be executed between the borrower, the owner of the pledged shares and the mortgagee association. The trust agreement shall provide the manner and conditions under which the pledged shares 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 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, June, 1961, No. 66, eff. 7-1-61.

**S-L 4.20 Definitions.** (1) "HOME-TYPE PROPERTY" means a property that has one or more residential units. Apartment houses, irrespective of number of residential units, are included in this classification.

(2) "COMBINATION-HOME-AND-BUSINESS-TYPE PROPERTY" means a single piece of property consisting of one or more residential units and business units. The business units may consist of stores, offices or light manufacturing enterprises.

(3) "OTHER-THAN-HOME-TYPE PROPERTY" means business or commercial property which does not have any residential units.

(4) "RESIDENTIAL UNIT" means the domicile housing one family.

(5) "IMPROVED REAL ESTATE" means a parcel of land upon which is erected or upon which it is immediately planned to erect a home-type property, combination-home-and-business-type property or other-than home-type property.

(6) "UNIMPROVED REAL ESTATE" means vacant lots or vacant lands.

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