

CHAPTER 27

MORTGAGE LOANS

Authority

N.J.S.A. 17:1-8.1; 17:12B-165; 17:12B-168.

Source and Effective Date

R.1990 d.498, effective September 12, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

Executive Order No. 66(1978) Expiration Date

Chapter 27, Mortgage Loans, expires on September 12, 1995.

Chapter Historical Note

Chapter 27, Mortgage Loans, was filed and became effective prior to September 1, 1969. Subchapter 6, Variable Interest Rate Mortgage Loans, was adopted as R.1976 d.279, effective September 1, 1976. See: 8 N.J.R. 453(a). Subchapter 6, was repealed by R.1981 d.507, effective January 4, 1982. See: 13 N.J.R. 715(a), 14 N.J.R. 40(b). Chapter 27 was readopted as R.1990 d.498, effective September 12, 1990. See: Source and Effective Date.

See section annotations for specific rulemaking activities.

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SUBCHAPTER 6. (RESERVED)

SUBCHAPTER 1. MORTGAGE DOCUMENT REQUIREMENTS

3:27-1.1 Required documents

(a) Each association shall maintain a mortgage file with respect to each mortgage loan. The file shall contain:

1. An obligation;
2. Mortgage;
3. Insurance Policy or other evidence of insurance;
4. Application for loan;
5. Appraisal report;
6. Certificate of title or title policy;
7. Loan and title closing statements;
8. Other documentation required by law or regulation.

Amended by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

Made the contents of the file imperative.

3:27-1.2 Minimum requirements for title papers

(a) Title papers shall set forth, at a minimum:

1. A title page containing a description of the property by metes and bounds, or any other legal description of the property mortgaged to the association;
2. An abstract of the deed to the mortgagor;
3. An abstract of the mortgage made by the mortgagor to the association;
4. A certificate of counsel to the effect that the association's mortgage on the property in question is a first lien as defined by N.J.S.A. 17:12B-11, which shall be dated on or subsequent to the time the instrument was recorded.

Amended by R.1990 d.498, effective October 15, 1990.

See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

Corrected statutory cite.

3:27-1.3 Minimum requirements for title policies

Title policies shall set forth that the association's lien is within the meaning of N.J.S.A. 17:12B-11, or in lieu of such statement, a certificate of counsel which states that based upon his review of the title policy the association's lien is within the meaning of said Section.

Amended by R.1990 d.498, effective October 15, 1990.

See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

Corrected statutory cite.

3:27-1.4 Minimum requirements for applications

(a) The application shall be signed by the borrower or his agent and will identify the security property, disclose the purpose of the loan and will show the purchase price if applicable.

(b) The application will also include a financial statement of the applicant which shall be certified as correct by the prospective borrower. The files should contain a credit report or documentation indicating that financial information supplied by the borrower was verified.

3:27-1.5 Minimum requirements for appraisal reports

(a) The appraisal report shall disclose the fair market value of the security property and will contain sufficient information and data concerning the security property to substantiate the fair market value.

(b) When the security property contains more than four dwelling units or when appraisals are based on plans and specifications the appraisal will show the basis used in determining the fair market value.

3:27-1.6 Minimum requirements for loan closing statements

The loan closing statement shall be signed by the borrower indicating his approval of the disbursements shown on the statement. The statement shall show the date, amount, the purpose and recipient of every disbursement.

3:27-1.7 Minimum requirements for Section 156 additional loans

Additional loans as authorized by N.J.S.A. 17:12B-156 require the same documentation as set forth in this subchapter with respect to applications and loan closing statements. If required by the association, additional credit information and appraisals may be obtained.

Amended by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).
Added statutory cite.

SUBCHAPTER 2. (RESERVED)**Subchapter Historical Note**

Subchapter 2, formerly containing rules entitled "Mortgage Loan Participations", was repealed by R.1990 d.498, effective October 15, 1990. See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

SUBCHAPTER 3. MORTGAGE LOANS TO BE MADE OR PURCHASED WITH MATURITIES UP TO 30 YEARS (REPEALED)**SUBCHAPTER 4. LOANS AND INVESTMENTS NOT SPECIFICALLY AUTHORIZED BY STATE STATUTE PERMITTED UNDER SECTION 5 OF THE "HOMEOWNERS LOAN ACT OF 1933"****3:27-4.1 Authorization for insured associations**

Any insured association, by resolution of its board of directors, is hereby authorized to make loans and investments not specifically authorized by the "Savings and Loan Act (1963)", as amended and supplemented, subject to the following limitations and provisions of this subchapter.

3:27-4.2 Federal laws and regulations

An insured association, subject to the limitations and provisions of this subchapter, may make any loan or investment which is permitted to be made by a Federal savings and loan association by Federal law or under rules and regulations promulgated by the Office of Thrift Supervision, or other appropriate Federal regulator, under the authority of Section 5 of the "Home Owners' Loan Act of 1933", as amended and supplemented or as the same may in the future be amended and supplemented.

Amended by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).
Name of office changed from Federal Home Loan Bank.

Statutory References

See 12 U.S.C.A. Sec. 1464(c).

Case Notes

Federal and State chartered savings and loan association may only engage in the secondary mortgage loan business under the Secondary Mortgage Loan Act through separate service corporations. City Consumer Services, Inc. v. Dep't of Banking, 134 N.J.Super. 588, 342 A.2d 540 (App.Div.1975), certification granted 69 N.J. 73 (1975) 351 A.2d 1.

3:27-4.3 Limitations

No loan or investment shall be made under the provisions of this Subchapter where such loan or investment shall exceed the limitations provided for Federal savings and loan associations under the provisions of Section 5 of the "Home Owners' Loan Act of 1933", as amended and supplemented as of the time such loan or investment is made.

3:27-4.4 Reserve requirements

No insured association shall make a loan or investment under the provisions of this Subchapter at any time that the total of such insured association's reserves and undivided profits are less than the total reserves and undivided profits required for a Federal savings and loan association to be eligible to make the same type of loan or investment provided for under the provisions of Section 5 of the "Home Owners' Loan Act of 1933", as amended and supplemented.

3:27-4.5 (Reserved)

Repealed by R.1985 d.484, effective September 16, 1985.
See: 17 N.J.R. 1619(a), 17 N.J.R. 2248(a).
This section was "Asset limitation."

3:27-4.6 Service corporations

(a) Any insured association, by resolution of its board of directors, may authorize its service corporation to engage in activities to the same extent as Federally chartered savings and loan associations under Part 545.74 of the Rules and Regulations for the Federal Savings and Loan System. A State chartered association making such investment shall comply with the following conditions and procedures:

1. Prior to investing in any service corporation, a written resolution, permitting the Commissioner of Banking or other person appointed by him to examine or audit the books and records of the service corporation will be submitted to the Department of Banking. The resolution shall also provide that the service corporation will pay the cost of such examination or audit. If the Commissioner determines that it is necessary to perform an examination or audit of the books of the service corporation and such corporation is subject to examination by both Federal and State supervisory authorities, the examinations will be conducted jointly whenever possible.

2. A copy of the independent audit report of the service corporation shall be submitted to the Commissioner of Banking annually.

3. If the service corporation is to engage in activities not specifically outlined in Part 545.74 of the Rules and Regulations for the Federal Savings and Loan System, application shall be made to the Commissioner of Banking for approval where the service corporation is wholly owned by one or more State-chartered institutions. The application shall take the form of a resolution adopted by the State-chartered institutions, together with a letter explaining the nature and anticipated equity investment relative to the proposed activity. If the service corporation is jointly owned by both Federal and State chartered associations, a copy of the application filed with the Office of Thrift Supervision, or other appropriate Federal regulator, will be forwarded to the Commissioner for approval.

Amended by R.1985 d.484, effective September 16, 1985.
See: 17 N.J.R. 1619(a), 17 N.J.R. 2248(a).

Substantially amended.
Amended by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).
Office name changed from Federal Home Loan Bank.

Case Notes

Federal and State chartered savings and loan associations may only engage in the secondary mortgage loan business under the Secondary Mortgage Loan Act through separate service corporations. City Consumer Services, Inc. v. Dep't of Banking, 134 N.J.Super. 588, 342 A.2d 540 (App.Div.1975), certification granted 69 N.J. 73 (1975) 351 A.2d 1.

SUBCHAPTER 5. LIMITATION ON THE AMOUNTS OF REAL ESTATE LOANS AND INVESTMENTS

3:27-5.1 Limitations

The amount of any real estate loan or investment by a State association for any one property containing one or more dwelling units shall not exceed the amount the association is permitted to lend pursuant to Federal limitations on loans to one borrower as set forth in Federal statutes, or regulations promulgated by the Office of Thrift Supervision or other appropriate Federal regulator.

Amended by R.1975 d.106, eff. April 23, 1975.
See: 7 N.J.R. 94(a), 7 N.J.R. 198(a).
Amended by R.1977 d.220, eff. June 22, 1977.
See: 9 N.J.R. 207(a), 9 N.J.R. 304(a).
Amended by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).
Former limits on loans replaced by federal standards.

Authority

N.J.S.A. 17:12B-168

3:27-5.2 (Reserved)

Repealed by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

3:27-5.3 (Reserved)

Amended by R.1975 d.106, eff. April 23, 1975.
See: 7 N.J.R. 94(a), 7 N.J.R. 198(a).
Amended by R.1975 d.249, eff. August 18, 1975.
See: 7 N.J.R. 291(a), 7 N.J.R. 400(c).
Amended by R.1977 d.220, eff. June 22, 1977.
See: 9 N.J.R. 207(a), 9 N.J.R. 304(a).
Repealed by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

3:27-5.4 (Reserved)

R.1971 d.8, eff. January 15, 1971.
See: 2 N.J.R. 97(c), 3 N.J.R. 19(c).
Repealed by R.1990 d.498, effective October 15, 1990.
See: 22 N.J.R. 2206(a), 22 N.J.R. 3213(b).

Authority
N.J.S.A. 17:12B-168

SUBCHAPTER 6. (RESERVED)