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# Rules of Department of Commerce and Insurance

## Division 1140—Division of Finance Chapter 20—Association Loans

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**Title 20—DEPARTMENT OF  
COMMERCE AND INSURANCE  
Division 1140—Division of Finance  
Chapter 20—Association Loans**

**20 CSR 1140-20.010 Definitions**

*PURPOSE:* This rule defines the terms used in this chapter.

(1) The words and terms that follow, when used in this chapter, shall have the following meanings:

(A) Residential real estate—real estate used or intended to be used as a residence by not more than four (4) families;

(B) Single family dwelling—a structure designed for residential use by one (1) family; or a unit in a condominium, as defined in Chapter 448, RSMo. The term also includes property owned in common with others which is necessary to or contributes to the use and enjoyment of such a structure or unit;

(C) Home—a structure designed and used as a residence by one (1) family or a structure designed and used for occupancy of one to four (1-4) family units;

(D) Other real estate—land on which structures or improvements which do not qualify the property as residential real estate may or may not be constructed, or improved, or unimproved land on which nonresidential structures or improvements may or may not be constructed;

(E) Commercial loans—secured and unsecured loans for commercial, corporate, business or agricultural purposes;

(F) Consumer loans—secured or unsecured loans for personal, family, home improvement or household purposes, including any loan reasonably incident to the consumer loan;

(G) Consumer goods—goods bought or used primarily for personal, family, home improvement or household purposes;

(H) Improved real estate—building lots or sites upon which improvements have been completed; or building lots or sites ready for the construction of a structure designed for residential or commercial use;

(I) Manufactured home—a movable-dwelling constructed in one (1) or more units (to occupy land) having a minimum width of ten feet (10') and a minimum area of four hundred (400) square feet and containing living facilities for year-round occupancy by one (1) family, but does not include mobile homes which do not conform to the applicable standards and requirements of Chapter 700, RSMo regarding mobile home standards;

(J) Manufactured home chattel paper—written evidence of both a monetary obliga-

tion and a security interest of first priority in one (1) or more manufactured homes and any equipment installed or to be installed;

(K) Manufacturer's invoice price—a manufacturer's itemized charges, shown on its invoice, for a specifically identified manufactured home, furnishings, equipment and accessories installed by the manufacturer and freight;

(L) Wrap-around real estate loan—a financing device where a junior lien secures a liability consisting of the amount of senior debt, plus any additional funds advanced to the borrower, where the original mortgagor continues to be personally liable on the senior debt;

(M) Loan secured by leasehold—a loan secured by a first lien on a leasehold interest in real property and improvements situated on that real property;

(N) Combination of home and business property—real property which is used in part for business purposes and in part for residential purposes by not more than four (4) families;

(O) Education loans—loans made for the payment of educational expenses; and

(P) Loans on securities—loans to insured financial institutions, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations or investments in which an association has the authority to invest directly.

*AUTHORITY:* sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.010. This rule previously filed as 4 CSR 140-20.010. Original rule filed Feb. 16, 1972, effective Feb. 26, 1972. Rescinded and readopted: Filed July 14, 1978, effective Nov. 13, 1978. Amended: Filed July 16, 1979, effective Oct. 12, 1979. Amended: Filed Dec. 14, 1982, effective March 11, 1983. Rescinded and readopted: Filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.010, effective July 6, 1994. Moved to 20 CSR 1140-20.010, effective Aug. 28, 2006.

\*Original authority: 369.144, 1994 RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.

**20 CSR 1140-20.015 Establishment and Maintenance of Records**

*PURPOSE:* This rule sets the minimum requirements for the establishment and maintenance of records for loans.

*Editor's Note:* Copies of all referenced federal regulations are available at a cost established by state law to any interested party at the Division of Finance, Room 630, 301 West High Street, Jefferson City, Missouri or the Office of the Secretary of State at a cost established by state law.

The records established and maintained by associations for all loans made that are secured by real estate shall meet the minimum requirements set forth in applicable federal regulations and any other requirements that the director may set. For loans not secured by real estate, associations must establish and maintain documentation as is consistent with the safe and sound operation of an association.

*AUTHORITY:* section 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.015. This rule previously filed as 4 CSR 140-20.015. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.015, effective July 6, 1994. Amended: Filed Nov. 8, 1994, effective March 30, 1995. Moved to 20 CSR 1140-20.015, effective Aug. 28, 2006.

\*Original authority: 369.299, RSMo 1971, amended 1994.

**20 CSR 1140-20.025 Types of Loans**

*PURPOSE:* This rule defines the types of loans an association may make.

(1) For the purpose of this chapter, an association may originate, invest in, sell, purchase, participate or otherwise deal in any loan it could make if it were incorporated and operating as a federal association domiciled in this state, as long as the association complies with all applicable regulations governing those activities by federal associations.

(2) Election Regarding Classification of Loans.

(A) If a loan is authorized under more than one (1) section of the Missouri Savings and Loan Law or these regulations, an association may designate under which section the loan has been made. This loan may be apportioned among appropriate categories, and may be moved, in whole or in part, from one (1) category to another. To classify a loan as a real estate loan, an association must rely substantially upon the real estate as the primary security for the loan.

(B) For purposes of determining whether aggregate loans or investments under the



Missouri Savings and Loan Law or these regulations exceed an applicable percentage-of-assets limitation, a loan commitment shall be counted as an investment and shall be included in total assets of an association only to the extent that funds have been advanced (and not repaid) pursuant to the commitment. The term loan commitment includes a loan in process, a letter of credit or any other commitment to extend credit.

(C) Loans sold to a third party shall be included in calculation of a percentage of assets investment limitation only to the extent they are sold with recourse.

(D) An association may make a loan secured by assignment of loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loans.

(3) An association may originate, invest in, sell, purchase, participate or otherwise deal in the following types of loans:

(A) Residential real estate loans—in accordance with 4 CSR 260-8.031 (relating to residential real estate loans);

(B) Other real estate loans—in accordance with 4 CSR 260-8.035 (relating to other real estate loans);

(C) Commercial loans—in accordance with 4 CSR 260-8.041 (relating to commercial loans);

(D) Consumer loans—in accordance with 4 CSR 260-8.046 (relating to consumer loans);

(E) Loans to officers, directors or employees of the association—in accordance with 4 CSR 260-8.052 (relating to loans to officers, directors and employees);

(F) Wrap-around real estate loans—in accordance with 4 CSR 260-8.055 (relating to wrap-around real estate loans);

(G) Education loans—in accordance with 4 CSR 260-8.061 (relating to education loans);

(H) Manufactured home loans—in accordance with 4 CSR 260-8.065 (relating to manufactured home loans);

(I) Alternative mortgage loans—in accordance with 4 CSR 260-8.072 (relating to alternative mortgage loans);

(J) Line-of-credit construction loans—in accordance with 4 CSR 260-8.075 (relating to line-of-credit construction loans);

(K) Letters of credit—in accordance with 4 CSR 260-8.083 (relating to letters of credit);

(L) Loans on cooperatives—in accordance with 4 CSR 260-8.085 (relating to loans on cooperatives);

(M) Loans secured by leasehold—in accordance with 4 CSR 260-8.091 (relating to loans secured by leaseholds);

(N) Loans on securities—in accordance with 4 CSR 260-8.096 (relating to loans on securities);

(O) Loans to homeowners—in accordance with 4 CSR 260-8.100 (relating to loans to homeowners);

(P) Government insured or guaranteed loans—without regard to any loan limitations or restrictions otherwise imposed by this chapter, any loan, secured or unsecured, which is insured or guaranteed in any amount by the United States or instrumentality of the United States; and

(Q) Loans fully secured by savings accounts owned or otherwise pledged for or by the borrower.

*AUTHORITY: section 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.025. This rule previously filed as 4 CSR 140-20.025. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.025, effective July 6, 1994. Moved to 20 CSR 1140-20.025, effective Aug. 28, 2006.*

*\*Original authority: 369.299, RSMo 1971, amended 1994.*

**20 CSR 1140-20.031 Residential Real Estate Loans**

*PURPOSE: This rule authorizes the types of loans secured by real estate an association may make and prescribes the nature of security for loans and the terms and conditions of those loans.*

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in loans secured by residential real estate as follows:

(A) First mortgage loans—Loans secured by a first lien on residential real estate, on the terms set out in this rule;

(B) Second mortgage loans—Loans secured by a second lien on residential real estate in the same amount as if the loan were secured by a first lien, less the unpaid balance of the first lien indebtedness, on the terms set out in this rule; provided that the total of the unpaid balance of all loans secured by each deed of trust and the maximum advances authorized under the deed of trust do not exceed the value of the security; and

(C) Advances—An association may make advances on an open-ended first deed of trust held by the association, not subject to any intervening security interest of another, if the total of the unpaid balance of all loans secured by each deed of trust and the maximum advances authorized under the deed of trust do not exceed the value of the security

or the advance is made for the purpose of protecting the value of the security interest of the association.

(2) Terms and Conditions.

(A) All residential real estate loans shall be repayable within a period not to exceed forty (40) years from the date the loan is made.

(B) Residential real estate loans may be fully amortized, partially amortized or non-amortized, provided that interest is payable at least semiannually. The loan contract may provide for the deferral and capitalization of all interest on residential real estate loans. Provisions for full amortization of the loan shall be required in the loan contract, to begin no later than five (5) years from the date of origination.

(3) An association shall comply with the documentation requirements of 4 CSR 260-8.015 prior to funding a loan under this regulation.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.031. This rule previously filed as 4 CSR 140-20.031. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.031, effective July 6, 1994. Moved to 20 CSR 1140-20.031, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.*

**20 CSR 1140-20.035 Other Real Estate Loans**

*PURPOSE: This rule authorizes associations to make loans secured by real estate other than residential real estate and prescribes the conditions and limitations on those loans.*

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in loans secured by real estate other than residential real estate as follows:

(A) First mortgage loans—Loans secured by a first lien on other real estate;

(B) Second mortgage loans—Loans secured by a second lien on other real estate in the same amount as if the loan were secured by a first lien, less the unpaid balance of the first lien indebtedness, on the terms set out in this rule, provided that the total of the unpaid balance of all loans secured by each deed of trust and the maximum advances authorized under the deed of trust do not exceed the value of the security; and



(C) Advances—An association may make advances on an open-ended first deed of trust held by the association, not subject to any intervening security interest of another, if the total of the unpaid balance of all loans secured by each deed of trust and the maximum advances authorized under the deed of trust do not exceed the value of the security or the advance is made for the purpose of protecting the value of the security interest of the association.

(2) The aggregate amount which an association may invest in other real estate loans shall not exceed forty percent (40%) of the association's assets.

(3) Terms and Conditions.

(A) All other real estate loans shall be repayable within a period not to exceed thirty (30) years from the date the loan is made, except loans made to finance the acquisition of real estate, development of real estate, or both, and loans made on the security of building lots and sites, which shall not be for a term in excess of eight (8) years.

(B) Other real estate loans may be fully amortized, partially amortized or nonamortized, provided that interest is payable at least semiannually. Provisions for full amortization of the loan shall be required in the loan contract, to begin no later than five (5) years from the date of origination. Amortized construction loans for a term in excess of five (5) years must provide for repayment to begin within thirty-six (36) months from the date of origination.

(C) For loans made to finance the development of real estate, loans on the security of building lots and sites, loans on unimproved real estate and construction loans, upon the release of any portion of the security property from the lien securing the loan, the principal balance of the loan shall be reduced by an amount at least equal to that portion of the outstanding loan balance attributable to the value of the property to be released. Value, is the appraised value at the time the loan was made.

(D) Loan documentation for development loans shall contain a satisfactory preliminary development plan. In addition, loans to one (1) borrower made under this regulation for any one (1) development project shall not exceed three percent (3%) of the association's assets. A development project includes all facilities that compose an integrated development plan. With respect to construction loans, associations shall reserve the right to impose limits on the number of structures under construction at a given time. Despite the limitations imposed by this section, an

association may make loans to a service corporation in any amount, subject to applicable limitations on investments in those service corporations.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.035. This rule previously filed as 4 CSR 140-20.035. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.035, effective July 6, 1994. Moved to 20 CSR 1140-20.035, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.*

### 20 CSR 1140-20.041 Commercial Loans

*PURPOSE: This rule authorizes associations to make secured or unsecured loans for commercial, corporate, business or agricultural purposes.*

*Editor's Note: Copies of all referenced federal regulations are available at a cost established by state law to any interested party at the Division of Finance, Room 630, 301 West High Street, Jefferson City, Missouri or the Office of the Secretary of State at a cost established by state law.*

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in loans for commercial, corporate, business or agricultural purposes.

(2) The aggregate amount which an association may invest in commercial loans shall not exceed fifteen percent (15%) of the association's assets or higher percentage as the director may authorize upon application. Further, total commercial loans to one (1) borrower (excluding service corporations and finance subsidiaries of an association) shall not exceed fifteen percent (15%) of an association's unimpaired capital and unimpaired surplus, plus an additional ten percent (10%) for loans fully secured by readily marketable collateral, as set forth in applicable federal regulations. Notwithstanding the provisions of 4 CSR 140-20.025(2), the percentage of assets limitation of this rule shall apply to—

(A) Overdraft loans on demand accounts; and

(B) Commercial loans not secured by real estate made by the association's service corporation.

*AUTHORITY: sections 369.144, 369.229 and 369.249, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.041. This rule previously filed as 4 CSR 140-20.041. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.041, effective July 6, 1994. Amended: Filed Nov. 8, 1994, effective March 30, 1995. Moved to 20 CSR 1140-20.041, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249, RSMo 1971, amended 1994.*

### 20 CSR 1140-20.046 Consumer Loans

*PURPOSE: This rule authorizes associations to make secured or unsecured loans for personal, family, home improvement or household purposes and loans reasonably incident to them.*

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in secured or unsecured consumer loans as follows:

(A) Direct or indirect consumer loans that may be either open-end or closed-end credit; and

(B) Loans to dealers in consumer goods for inventory financing, floor planning and leasing.

(2) The total investment under this rule shall not exceed thirty percent (30%) of the association's assets.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.046. This rule previously filed as 4 CSR 140-20.046. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.046, effective July 6, 1994. Moved to 20 CSR 1140-20.046, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.*

### 20 CSR 1140-20.052 Loans to Officers, Directors and Employees

*PURPOSE: This rule authorizes the types of loans an association may make to its officers, directors and employees.*



Editor's Note: Copies of all referenced federal regulations are available at a cost established by state law to any interested party at the Division of Finance, Room 630, 301 West High Street, Jefferson City, Missouri or the Office of the Secretary of State at a cost established by state law.

An association may make any loans to its officers, directors and employees that fully comply with the applicable terms and conditions of this chapter, provided that all such loans must conform to the restrictions set forth in applicable federal regulations.

AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994. \* This rule originally filed as 4 CSR 260-4.052. This rule previously filed as 4 CSR 140-20.052. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.052, effective July 6, 1994. Amended: Filed Nov. 8, 1994, effective March 30, 1995. Moved to 20 CSR 1140-20.052, effective Aug. 28, 2006.

\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.

20 CSR 1140-20.055 Wrap-Around Real Estate Loans

PURPOSE: This rule authorizes associations to make wrap-around real estate loans.

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in wrap-around real estate loans provided that the loan is—

(A) Secured by a lien on real estate on which there exists prior liens; and

(B) Evidenced by a note or bond which—

1. Has a principal amount equal to the aggregate of the outstanding prior indebtedness plus the additional funds advanced or to be advanced by the wrap-around lender;

2. Requires payments by the wrap-around borrower to the wrap-around lender of periodic installments at least sufficient to make required current payments on the prior indebtedness; and

3. Allows the wrap-around lender to make the payments due on the prior indebtedness.

(2) The loan file shall contain complete documentation of the date, amount, interest rate, terms, maturity and unpaid balance of all prior liens on the security property together with estoppel letters or certificates from prior

lien holders which obligate those prior lien holders to give the wrap-around lender notice of any default on the prior indebtedness and an opportunity to cure any the default.

AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994. \* This rule originally filed as 4 CSR 260-8.055. This rule previously filed as 4 CSR 140-20.055. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.055, effective July 6, 1994. Moved to 20 CSR 1140-20.055, effective Aug. 28, 2006.

\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.

20 CSR 1140-20.061 Education Loans

PURPOSE: This rule authorizes associations to make loans for educational purposes and to prescribe the conditions and limitations on those loans.

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in loans made for the purpose of paying educational expenses.

(2) Terms and Conditions.

(A) No association shall make any investment in loans under this regulation if the aggregate amount of its investment in those loans (exclusive of any investment which is or which at the time of its making was otherwise authorized) would exceed five percent (5%) of the assets of the association; and

(B) The borrower shall certify to the association that the proceeds of the loan are to be used solely for the payment of educational expenses.

AUTHORITY: sections 369.229, 369.249 and 369.299, RSMo 1994. \* This rule originally filed as 4 CSR 260-8.061. This rule previously filed as 4 CSR 140-20.061. Original rule filed July 14, 1978, effective Nov. 13, 1978. Amended: Filed Aug. 15, 1983, effective Nov. 11, 1983. Rescinded and readopted: Filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.061, effective July 6, 1994. Moved to 20 CSR 1140-20.061, effective Aug. 28, 2006.

\*Original authority: 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971 amended 1994.

20 CSR 1140-20.065 Manufactured Home Loans

PURPOSE: This rule prescribes the limitations and conditions on which an association may make loans or purchase commercial paper for the purpose of manufactured home financing.

(1) Inventory Financing. An association may invest in manufactured home chattel paper which finances a manufactured home dealer's acquisition of inventory provided the—

(A) Inventory is held for sale by the dealer in its ordinary course of business;

(B) Loan evidenced by the chattel paper is the dealer's obligation; and

(C) Loan amount does not exceed the following:

1. New manufactured homes—One hundred percent (100%) of manufacturer's invoice price for each manufactured home and equipment to be installed by the dealer; and

2. Used manufactured homes—Seventy-five percent (75%) of appraised market value or other generally accepted valuation of each manufactured home, including installed equipment.

(2) Retail Financing.

(A) Insured and Guaranteed Loans. An association may invest in retail manufactured home chattel paper that is insured or guaranteed or that has a commitment for insurance or guarantee.

(B) Conventional Loans. An association may invest in conventional retail manufactured home chattel paper provided the—

1. Manufactured home is located at a manufactured home park or other permanent or semipermanent site;

2. Manufactured home chattel paper is payable within twenty (20) years, in monthly payments which are substantially equal except to the extent that the financing complies with other mortgage provisions authorized by this chapter; and

3. Finance amount (excluding time-price differential or interest, however computed) does not exceed—

A. New manufactured homes—Ninety percent (90%) of the buyer's total cost, including freight, itemized set-up charges, sales or other taxes, filing and recording fees imposed by law and premiums for related insurance; and

B. Used manufactured homes—Ninety percent (90%) of appraised market value or other generally accepted valuation of the manufactured home, plus sales and other taxes, filing and recording fees imposed by



law, premiums for related insurance and freight and itemized set-up charges, if any.

(C) Combination Loans. An association may invest in manufactured home chattel paper secured by combinations of manufactured homes and lots on the following terms and conditions:

1. Affixed manufactured homes—If the wheels and axles have been removed and the manufactured home is permanently affixed to a foundation, a loan secured by a combination of manufactured home and lot on which it sits may be treated as a home or residential real estate loan under this chapter; and

2. Unaffixed manufactured homes—If the manufactured home is not affixed in the manner described in paragraph (2)(C)1. of this rule, an association may make a loan secured by a combination of manufactured home and lot on which it is or is to be located if the financing complies with the requirements of paragraphs (2)(B)1.–3. (Conventional Loans) and the loan-to-value ratio does not exceed seventy-five percent (75%) of the appraised value of the lot and lot improvements and ninety percent (90%) of the buyer's total costs of the manufactured home (or valuation of used manufactured home) as defined in paragraph (2)(B)3. of this rule.

(D) Sale of Paper. All manufactured home chattel paper sold by an association shall be sold without recourse. Further, no association may sell manufactured home chattel paper if at the close of its most recent semiannual period, it has manufactured home chattel paper scheduled items (other than assets acquired in a supervisory merger) in excess of five percent (5%) of its total portfolio in the paper, provided that application may be made to the director for a waiver of this restriction.

*AUTHORITY: sections 369.229, 369.249, 369.254 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.065. This rule previously filed as 4 CSR 140-20.065. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.065, effective July 6, 1994. Moved to 20 CSR 1140-20.065, effective Aug. 28, 2006.*

*\*Original authority: 369.229, RSMo 1971, amended 1983, 1994; and 369.249, 369.254 and 369.299, RSMo 1971, amended 1994.*

## 20 CSR 1140-20.072 Alternative Mortgage Instruments

*PURPOSE: This rule provides for certain conditions, limitations, provisions, disclosures and notification requirements placed*

*upon associations when making alternate mortgage instrument loans.*

*Editor's Note: Copies of all referenced federal regulations are available at a cost established by state law to any interested party at the Division of Finance, Room 630, 301 West High Street, Jefferson City, Missouri or the Office of the Secretary of State at a cost established by state law.*

(1) General. Associations originating, investing in, selling, purchasing, participating or otherwise dealing in residential real estate loans secured by borrower-occupied property may use the alternative mortgage instruments described in this rule, including their use in connection with the assumption or refinancing of loans authorized by other rules of this chapter, subject to the conditions set out as follows. An association using an alternative mortgage instrument described in this rule shall obtain and retain in the loan application file a certificate signed by the prospective borrower indicating that s/he has received the disclosure materials specified in this rule before electing to take the alternative mortgage instrument. An association using an alternative mortgage instrument described in this rule may not impose a penalty on any prepayment made within ninety (90) days following notice of an adjustment. In addition, in accordance with section 408.036, RSMo, no prepayment penalty shall be charged or exacted by an association when the full principal balance of the residential real estate loan is paid after five (5) years from the origination date and prior to maturity. In no event shall any prepayment penalty on a residential real estate loan exceed two percent (2%) of the balance at the time of prepayment.

(2) Adjustable Mortgage Loans. An adjustable mortgage loan is a loan that permits adjustment of the interest rate, the payment amount, the outstanding principal balance, the loan term or a combination of these methods. An association is authorized to originate, invest in, sell, purchase, participate or otherwise deal in adjustable mortgage loans subject to the following limitations and disclosures:

(A) Adjustments to the interest rate shall correspond directly to the movement of an interest-rate index or of a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, which index is readily available to and verifiable by the borrower and is beyond the control of the association. An association also may increase the interest rate pursuant to a formula or schedule that specifies the

amount of the increase, the time at which it may be made and which is set forth in the loan contract. An association may decrease the interest rate at any time;

(B) Adjustments to the payment and the loan balance that do not reflect an interest rate adjustment may be made if—1) the adjustments reflect a change in a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, is readily available to and verifiable by the borrower and is beyond the control of the association, 2) in the case of a payment adjustment, the adjustment reflects a change in the loan balance or is made pursuant to a formula or to a schedule specifying the percentage or dollar change in the payment as set forth in the loan contract, or 3) in the case of an open-end line-of-credit loan, the adjustment reflects an advance taken by the borrower under the line-of-credit and is permitted by the loan contract;

(C) Any combination of indices or a moving average of index values may be used as an index, and an association may use more than one (1) index during the term of a loan, if set forth in the loan contract;

(D) At least thirty (30) but not more than one hundred twenty (120) days prior to an adjustment and at least ninety (90) but not more than one hundred twenty (120) days prior to the expected maturity of a non- or partially-amortized loan, an association shall provide the borrower with notice of the adjustment or of maturity. However, where the loan contract provides that changes in the interest rate shall occur more frequently than changes in the payment, the association need not notify the borrower of changes in the rate, nor of changes in the loan balance or term resulting from a rate change, until notice of a payment adjustment is given. (For purposes of notification, a payment adjustment is considered to occur as of the date of the interest-rate change immediately preceding the due date of the adjusted payment.) In addition, where the loan contract sets out a schedule of payment adjustments, notice need not be given of payment changes made pursuant to that schedule. In the case of an open-end line-of-credit loan, notice of an adjustment to the payment or the balance need not be given if the adjustment reflects advances taken by the borrower under the line-of-credit and notice of a change in the interest rate permitted by the loan contract (and any resulting change in the payment) need not be given;

(E) The loan term may be adjusted only to reflect a change in the interest rate, the payment or the loan balance. A loan contract may provide an association with the right to call the loan due and payable either after a



specified number of years has elapsed following closing or upon the occurrence of a specified event external to the loan; and

(F) Not later than three (3) business days following receipt of a written application, an association shall disclose to each applicant the following:

1. The initial interest rate, if known, or the manner in which the initial interest rate will be established;

2. The amount of the initial payment, if known, and an explanation of how the amount of the payment is determined by reference to the initial loan balance, the interest rate and the term over which the balance is scheduled to be repaid;

3. A full explanation of how the adjustments may be made, including identification of the index(es) to be used and how index values may be obtained by the borrower and how the adjustment of one (1) item may affect the others; and

4. What information will be contained in each notice of an adjustment.

(3) Roll-Over Mortgage Loans. A roll-over mortgage loan is a loan that provides for interest rate adjustments at regular intervals with any interest rate changes being implemented through changes in the payment amount or term of the loan. Roll-over mortgages may be either short- or long-term notes secured by long-term mortgages. A roll-over mortgage loan differs from an adjustable mortgage loan in that an association is not required to use an interest-rate index that is readily available to and verifiable by the borrower and is beyond the control of the association as is required in subsection (2)(A) of this rule. Associations are authorized to originate, invest in, sell, purchase, participate or otherwise deal in roll-over mortgage loans, provided, however, that roll-over mortgage loans on owner-occupied single-family dwellings and homes shall be subject to the following requirements:

(A) The minimum term of the loan shall be six (6) months, during which time the interest rate and payments may be adjusted;

(B) Payment adjustments shall be contemporaneous with any interest-rate adjustments in an amount sufficient to amortize the loan over its remaining term;

(C) The borrower of a roll-over loan shall be given an option to renew the loan;

(D) Not later than three (3) business days following receipt of an application, an applicant, under this section, shall be given materials explaining the basic terms of the roll-over mortgage offered to them, a description of the options available to the borrower in the event of an interest-rate increase and the for-

mula or schedule to be used by the association to determine interest-rate adjustments. The association shall obtain a signed statement from the borrower acknowledging receipt of these materials and retain this statement in the loan file; and

(E) All notices of adjustment shall be provided to the borrower at least thirty (30) days before the adjustment becomes effective.

(4) In addition to the other required disclosures, an association making adjustable rate mortgage loans under this rule shall provide a clear and concise description of the nature of adjustable rate mortgage loans to each applicant for this loan as is required in applicable federal regulations. The booklet entitled *Consumer Handbook on Adjustable Rate Mortgages*, published by the Federal Reserve Board or other appropriate federal agency, shall constitute a disclosure in compliance with this section. This disclosure is not required in connection with the extension of consumer credit even if it is secured by a home or in connection with any other loan if the home is not the primary security for the loan.

(5) The disclosure provisions of this regulation shall apply only to alternative mortgage instruments used in connection with residential real estate loans secured by borrower-occupied property. Nothing in this regulation prevents the use of an adjustable-rate loan in connection with other real estate loans, commercial loans, consumer loans or other authorized loans.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.072. This rule previously filed as 4 CSR 140-20.072. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.072, effective July 6, 1994. Amended: Filed Nov. 8, 1994, effective March 30, 1995. Moved to 20 CSR 1140-20.072, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.*

#### **20 CSR 1140-20.075 Line-of-Credit Construction Loans**

*PURPOSE: This rule authorizes associations to make construction loans without the security of real property and specifies the conditions and limitations for unsecured construction loans.*

An association (pursuant to a plan adopted by the board of directors) may originate, invest in, sell, purchase, participate or otherwise deal in loans for constructing, adding to, improving, altering, repairing, equipping or furnishing what is or is to become real estate used primarily for residential purposes, relying substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or on third-party guarantees or similar assurances for repayment. The aggregate amount of an association's investment in these loans shall not exceed the greater of five percent (5%) of the association's assets or the sum of its surplus, undivided profits and reserves. Investments under this regulation shall not be included in any other percentage of assets limitation referred to in this chapter.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.075. This rule previously filed as 4 CSR 140-20.075. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.075, effective July 6, 1994. Moved to 20 CSR 1140-20.075, effective Aug. 28, 2006.*

*\*Original authority: 369.144, RSMo 1971, amended 1982, 1983, 1984, 1989, 1994; 369.229, RSMo 1971, amended 1983, 1994; and 369.249 and 369.299, RSMo 1971, amended 1994.*

#### **20 CSR 1140-20.083 Letters of Credit**

*PURPOSE: This rule authorizes associations to issue letters of credit.*

(1) An association may issue commercial and standby letters of credit in conformance with the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits and may pledge collateral to secure its obligations under them, subject to the following requirements.

(2) Terms and Conditions.

(A) Each letter of credit must conspicuously state that it is a letter of credit.

(B) The issuer's undertaking must contain a specified expiration date or be for a definite term and must be limited in amount.

(C) The issuer's obligation to pay must be solely dependent upon the presentation of conforming documents as specified in the letter of credit and not upon the factual performance or nonperformance by the parties to the underlying transaction.

(D) The account party must have an unqualified obligation to reimburse the issuer for payments made under the letter of credit.



*AUTHORITY: sections 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.083. This rule previously filed as 4 CSR 140-20.083. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.083, effective July 6, 1994. Moved to 20 CSR 1140-20.083, effective Aug. 28, 2006.*

*\*Original authority: 369.249, RSMo 1971, amended 1994 and 369.299, RSMo 1971, amended 1994.*

## **20 CSR 1140-20.085 Loans on Cooperatives**

*PURPOSE: This rule authorizes associations to make blanket loans on cooperative housing developments and on individual cooperative units.*

(1) Associations are authorized to originate, invest in, sell, purchase, participate or otherwise deal in loans on the security of cooperative housing developments provided that the cooperative housing development maintains reserves at least equal to those required for comparable developments insured by the Federal Housing Administration.

(2) Associations are authorized to originate, invest in, sell, purchase, participate or otherwise deal in loans on individual cooperative units. These loans may be made on the security of a security interest in stock, membership certificate or other evidence of ownership issued to a stockholder or member by a cooperative housing organization and an assignment of the borrower's interest in the proprietary lease or occupancy agreement issued by that organization. The provisions of 4 CSR 260-8.091 shall not apply to loans made pursuant to this section.

*AUTHORITY: sections 369.144, 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.085. This rule previously filed as 4 CSR 140-20.085. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.085, effective July 6, 1994. Moved to 20 CSR 1140-20.085, effective Aug. 28, 2006.*

*\*Original authority: 369.014, RSMo 1971, amended 1982, 1986, 1994; 369.224, RSMo 1971, amended 1983, 1989, 1994; and 369.299, RSMo 1971, amended 1994.*

## **20 CSR 1140-20.091 Loans Secured by Leasehold**

*PURPOSE: This rule authorizes associations to make loans secured by first liens on lease-*

*hold interests and prescribes the conditions and limitations on loans secured by leaseholds.*

(1) An association may originate, invest in, sell, purchase, participate or otherwise deal in loans secured by first liens on leasehold interests in real estate, in accordance with the following requirements.

(2) Terms and Conditions.

(A) The unexpired term of the leasehold exceeds the term of the loan by five (5) years or more.

(B) The loan is made under a policy set by the board of directors of the association.

(C) The association obtains a written opinion from an attorney that the lease agreement is lawful and enforceable.

(D) The association maintains a copy of the lease agreement and the attorney's opinion in the loan file.

*AUTHORITY: sections 369.229, 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.091. This rule previously filed as 4 CSR 140-20.091. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.091, effective July 6, 1994. Moved to 20 CSR 1140-20.091, effective Aug. 28, 2006.*

*\*Original authority: 369.014, RSMo 1971, amended 1982, 1986, 1994; 369.224, RSMo 1971, amended 1983, 1989, 1994; and 369.299, RSMo 1971, amended 1994.*

## **20 CSR 1140-20.096 Loans on Securities**

*PURPOSE: This rule authorizes associations to make loans to insured financial institutions or to registered brokers or dealers secured by loans, obligations or investments in which associations may invest directly.*

*Editor's Note: Copies of all referenced federal regulations are available at a cost established by state law to any interested party at the Division of Finance, Room 630, 301 West High Street, Jefferson City, Missouri or the Office of the Secretary of State at a cost established by state law.*

An association may invest in loans secured by obligations of or by obligations fully guaranteed as to principal and interest by the United States or any agency or instrumentality of the United States listed in applicable federal regulations, if the borrower is a financial institution insured by the Federal Deposit Insurance Corporation or is a broker or dealer registered with the Securities and Exchange Commission and provided the market value

of the securities for each loan at least equals the amount of the loan at the time it is made.

*AUTHORITY: sections 369.249 and 369.299, RSMo 1994.\* This rule originally filed as 4 CSR 260-8.096. This rule previously filed as 4 CSR 140-20.096. Original rule filed Nov. 4, 1986, effective Jan. 30, 1987. Changed to 4 CSR 140-20.096, effective July 6, 1994. Amended: Filed Nov. 8, 1994, effective March 30, 1995. Moved to 20 CSR 1140-20.096, effective Aug. 28, 2006.*

*\*Original authority: 369.249, RSMo 1971, amended 1994 and 369.299, RSMo 1971, amended 1994.*