

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

**1301:9-2-23 Home equity and second mortgage loans.**

- (A) A "home equity loan or a second mortgage loan" is a loan secured by the equity in a dwelling, and is made for a purpose other than the purchase or refinancing of the dwelling, regardless of the lien priority. A home equity loan may be one with lines of equity credit which are either variable or fixed-rate. Home equity loans qualify as consumer credit. Home equity and second mortgage loans shall be made in accordance with disclosures required under the "Truth in Lending Act," 82 Stat. 149 (1980), 15 U.S.C. 1606, as [amended in effect on July 21, 2010](#).
- (B) Adequate insurance on properties securing home equity and second mortgage loans shall be in place and the borrower shall furnish a copy of a fire and casualty policy in at least the amount of any outstanding mortgage with a mortgage loss payable clause in favor of the credit union.
- (C) Credit unions engaging in equity lending shall obtain a title search of the property securing home equity and second mortgage loans for outstanding liens and must retain a copy in the member's file. The title to the property securing a home equity or second mortgage loan shall be in fee-simple absolute.
- (D) The combined aggregate amount of first mortgage and home equity or second mortgage loans shall not exceed one hundred per cent of the appraised value of the property securing the loan. An appraisal made by a certified or licensed independent appraiser who has satisfied the requirements of Chapter 4763. of the Revised Code and applicable rules or other comparable statute, shall be obtained for home equity or second mortgage loans of two-hundred fifty thousand dollars or more, or for ninety-five per cent of appraised value. Appraisals or a determination of the property value for home equity or second mortgage loans which are less than two hundred fifty thousand dollars or less than ninety-five per cent of appraised value shall, as a minimum, be made by qualified staff personnel ~~approved by the board of directors~~ and include a written report documenting the comparable sales or based on other acceptable information and documentation that accurately reflects the appraised value.
- (E) A credit union may make home equity or second mortgage loans secured by liens exceeding ninety-five per cent of the appraised value, provided that the credit union files with the superintendent a copy of the loan policy and information regarding the placement of proper private mortgage insurance on the excess amount. The superintendent shall notify the credit union not more than ten business days after the filing of the request or policy whether it is denied, approved, or needs modification. If the superintendent does not respond within ten business days after the filing of the request or policy, it shall be deemed approved; unless, the superintendent notifies the credit union in writing within ten business days of the credit union's request being filed that additional documentation is required. If additional documentation is required, the credit union shall have thirty days to file the additional documentation with the superintendent. If the superintendent does not respond within ten business days of receiving the additional documentation the request shall be deemed approved. However, nothing shall preclude a credit union from requesting a waiver in writing for the requirement of private mortgage insurance when modifying an existing loan above ninety five per cent loan to value. The superintendent shall approve or deny the waiver within ten business days of receiving the request. If the superintendent does not respond within ten business days of receiving the waiver request it shall be deemed approved.
- (F) The payment schedules for home equity and second mortgage loans shall provide for monthly installments but no less than quarterly, that include amortization of the principal and interest within terms of the loan agreement, and in no case shall the term exceed forty years.

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- (G) If requested by a credit union, the superintendent may approve a less restrictive real estate loan policy than provided by this rule. The request shall be made in writing and include a copy of the proposed real estate loan policy and a certified copy of the resolution of the board of directors adopting the policy. The credit union shall substantiate that it has the expertise, capital, management, and experience to implement the proposed policy. The credit union shall file with the superintendent a copy of the loan policy and information regarding the placement of proper private mortgage insurance the excess amount. The superintendent shall notify the credit union not more than ten business days after the filing of the request or policy whether it is denied, approved, or needs modification. If the superintendent does not respond within ten business days after the filing of the request or policy, it shall be deemed approved; unless, the superintendent notifies the credit union in writing within ten business days of the credit union's request being filed that additional documentation is required. If additional documentation is required, the credit union shall have thirty days to file the additional documentation with the superintendent. If the superintendent does not respond within ten business days of receipt of the additional documentation, the request or policy shall be deemed approved.
- (H) Nothing herein shall preclude the superintendent from requiring a more restrictive real estate loan policy than provided by this rule, as a matter of safety and soundness.