



Ohio Administrative Code

Rule 1301:9-2-21 First mortgage purchase money real estate loans and refinancing.

Effective: July 8, 2024

(A) For purposes of this rule, "first-lien residential real estate loan" has the same meaning as in 12 C.F.R. 702.2, as in effect on November 1, 2023.

(B) For purposes of this rule, a "non-conforming loan" means a loan which the credit union knows or has a reasonable basis to conclude is not eligible to be sold to either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac).

(C) For purposes of this rule, a credit union has "a reasonable basis to conclude" a loan is not eligible to be sold to Fannie Mae or Freddie Mac if either of the following:

(1) The loan is in an amount that is greater than the corresponding baseline conforming loan limit established by the Federal Housing Finance Agency;

(2) The loan fails to satisfy any eligibility criteria specifically identified, in writing, by the superintendent.

(D) A credit union may make first-lien residential real estate loans, provided it has, as a minimum, an approved and functioning asset/liability management committee; and policy and procedures, based on an asset liability management program which may include secondary market standards. A credit union may make non-conforming loans pursuant to the credit union's loan and risk management policies; however, no more than fifty per cent of the entire first-lien residential real estate loan portfolio shall be non-conforming, unless otherwise waived by the superintendent.

(E) Any credit union may make first-lien residential real estate loans secured by liens not exceeding:

(1) The lesser amount of eighty per cent of the appraised value or eighty per cent of the sale price, if such real estate is in the process of being improved by a one to four family dwelling; and



(2) The lesser amount of ninety-five per cent of the appraised value or ninety-five per cent of the sale price, if such real estate is improved by a one to four family dwelling.

(F) A credit union may make first-lien residential real estate loans secured by liens exceeding ninety-five per cent of the lesser amount of the appraised value or sale price, 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 policy whether it is denied, approved, or modified. If the superintendent does not respond within ten business days after the filing of the 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. If the superintendent does not respond within ten business days of receipt of the additional information, the policy shall be deemed approved. A credit union may request a waiver for the requirement of private mortgage insurance, when modifying an existing first mortgage real estate loan above ninety-five per cent loan to value, from the superintendent.

(G) Installment payments for all first-lien residential real estate loans shall be sufficient to amortize the entire principal and interest of the loan within a period of not more than forty years.

(H) A loan secured by real estate shall be in the form of an obligation or obligations secured by a mortgage, trust deed or other instrument, which shall constitute a lien on real estate. Any credit union may sell any obligations so secured in whole or in part.

(I) The limitations and restrictions set forth in this rule do not apply to loans made prior to the effective date of this rule, and do not apply to:

(1) Real estate loans that are insured under the National Housing Act, 48 Stat. 1246 (1934), 12 U.S.C.A. 1441, as in effect on July 18, 2023; or

(2) Real estate loans that are insured by the secretary of agriculture of the United States pursuant to Title I of the Bankhead-Jones Farm Tenant Act, 50 Stat 522 (1937), 7 U.S.C.A. 1000, as in effect on July 18, 2023.



(J) The following are mandatory documents that shall be obtained by the credit union for a first-lien residential real estate loan:

- (1) Note or bond which represents evidence of debt and contains the terms of repayment. This is in addition to the drafting of a valid purchase contract and approved application form;
- (2) Mortgage deed or trust which establishes the credit union's rights to the property securing the loan. The mortgage deed or trust shall contain detailed property description;
- (3) The application which represents a formal request for a loan detailing basic underwriting data such as security property offered. The purpose of the loan sales price if applicable and the borrower's capacity to repay, as a minimum of facts to be disclosed;
- (4) An appraisal report dated within six months of application. The appraisal shall be 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, if the loan is greater than four hundred thousand dollars. Appraisals or determinations of the property value for loans four hundred thousand dollars and under shall, at a minimum, be made by qualified staff personnel who have been approved by the board of directors and include a written report documenting the comparable sales, other information, and documentation that accurately reflect the appraised value. Appraisals shall be in writing, dated, and signed. Certified or licensed independent appraisers shall be paid the same fee whether or not the loan is granted. Sales price and loan information shall be withheld from the independent appraiser;
- (5) A credit report dated within ninety days of application;
- (6) Asset and liability verification or other acceptable verification requirements;
- (7) Title evidence which establishes the validity of the association's lien position through title insurance or an attorney's opinion of validity;
- (8) Hazard insurance coverage which insures the borrower and contains a loss payable clause in



favor of the credit union;

(9) Termite inspection, if required in the locality;

(10) Flood insurance coverage when the property securing a loan is or will be located in a flood plain. Credit unions shall comply with all federal requirements including apprising the borrower of the fact that the property is located within a flood plain and maintaining records, placed in individual loan files, which indicate how the credit union determined whether flood insurance is required, a copy of the flood insurance policy, and the written acknowledgment of all parties of compliance with the federal requirements;

(11) A settlement and/or cost statement which indicates all charges and fees paid in connection with the loan, in compliance with "Truth in Lending Act", 82 Stat. 149 (1980), 15 U.S.C. 1606, as in effect on July 18, 2023 and the "Real Estate Settlement Procedures Act" 88 Stat. 1724, 12 U.S.C. 2601, as in effect on July 18, 2023, the dates, amounts, receipts of each disbursement of loan proceeds, and evidence that the borrower received a copy of the statement;

(12) If applicable, a construction loan agreement which constitutes an agreement between the credit union and the borrower and/or contractor, setting forth in detail the rights and responsibilities of the parties involved pursuant to rule 1301:9-2-22 of the Administrative Code pertaining to construction loans;

(13) A commitment letter which specifies the terms and conditions under which the credit union promises to lend to the applicant; and

(14) If applicable, any other documents as may be required for certain types of loans, such as loans for land acquisition and development, or loans on developed lots and sites.

(K) The provisions of this rule shall be applicable to the refinancing of first-lien residential real estate loans, with the exception of the use of the sale price.

(L) The superintendent may approve a less restrictive real-lien residential estate loan policy, provided that:



- (1) the request is made in writing
- (2) the request includes a copy of the proposed real estate loan policy
- (3) the request includes a certified copy of the resolution of the board of directors adopting the policy
- (4) the credit union substantiates that it has the expertise, capital, management, and experience to implement the proposed policy
- (5) and 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 requires 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.

(M) The superintendent may adopt a more restrictive first-lien residential real estate loan policy than provided by this rule, if it is justified as a matter of safety and soundness.