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**CH. 130 INVESTMENTS, LOANS AND BORROWING**

**CHAPTER 130**  
**INVESTMENTS, LOANS AND BORROWING**

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**§ 130101. Investments and Loans Limited by Act.**

No association shall make or purchase any investments or loans except investments or loans authorized or permitted by this act. Nothing contained in this act shall require any association to sell, transfer or dispose of any investment or loan heretofore made or purchased by such association. Notwithstanding anything to the contrary in this act, any association, without limitation or restriction, may renew, extend the time of payment of, or rewrite any loan heretofore made, and may make additional advances or loans for the purpose of preserving the security of any loan or of protecting the property securing any loan and may make any such renewal, extension, advance, or loan, as aforesaid, to the borrower or any successor in interest in the property securing the loan,

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and may make loans on Property sold by an association or extend credit thereon for the purpose of facilitating the sale of such property.

**SOURCE:** GC §41450.

**§ 130102. Investments Generally.**

An association may invest in buy and sell the following:

(1) Real property used or to be used primarily as the principal office or branch of such association. provided, that no association shall invest in such real property more than one-half (1/2) of the sum of its aggregate paid-up non-withdrawable capital, federal insurance reserve, loan reserve, and any surplus and reserve which is not subject to distribution to the shareholders or stockholders except upon dissolution or liquidation;

(2) Furniture, fixtures, furnishings, equipment and leasehold improvements necessary or proper for the business of such association, or for use in connection with properties owned by, or securing loans of such association; provided, that no association shall invest in furniture, fixtures, furnishings, equipment and leasehold improvements for its offices, more than twenty percent (20%) (or, if it has no real property used or to be used primarily as its principal office or branch, thirty percent (30%)) of the sum of its aggregate paid-up non-withdrawable capital, federal insurance reserve, loan reserve, and any surplus and reserve which is not subject to distribution to the shareholders or stockholders except upon dissolution or liquidation;

(3) United States government bonds and treasury certificates, or any bonds, debentures, notes or other obligations guaranteed by the United States of America;

(4) Bonds, debentures and notes issued by any federal home loan bank, or other similar federal agency, or consolidated federal home loan bank bonds, debentures or notes;

(5) Bonds of this territory;

(6) Bonds, other securities and banker's acceptances which are legal as investments for or purchases by savings banks in this territory;

(7) Bonds issued by any railroad corporation or any public utility corporation, excluding street railway corporations,

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substantially all of the properties of which are located in the United States of America; provided, the purchase of all bonds pursuant to the sole authority of this subdivision (7) shall be first approved by the Commissioner;

(8) Stock issued by any federal home loan bank or other similar federal agency of which such association may be eligible to be a member;

(9) Bonds, notes, debentures or other obligations of national mortgage associations or other similar credit institutions now or hereafter organized under Title III of the National Housing Act; provided, the purchase of all bonds, notes, debentures or other obligations pursuant to the sole authority of this subdivision (9) shall be first approved by the Commissioner; or

(10) Stock, obligations, or other securities of any corporations organized under the laws of Guam, if the entire capital stock of such corporation is available for purchase only by domestic associations, but no association may make any investment under this subdivision (10) if its aggregate outstanding investment under this subdivision (10), 'determined as prescribed by the Commissioner, would thereupon exceed one percent (1%) of its assets; provided, further, that such investment is one that would be permitted to such an association chartered by the Federal government.

Provided, that, except with the prior consent of the Commissioner, no association at any one time shall have invested pursuant to subdivisions (6), (7) and (9) of this section, an aggregate amount in excess of ten percent (10%) of the total assets of such association.

Provided, further, that the percentage limitations specified in subdivisions (1) and (2) of this section may be exceeded if the investment in excess of such limitations is approved by two-thirds (2/3) of the directors, and is approved in writing by the Commissioner.

Associations may make deposits with any bank and such deposits shall not be construed as loans within the meaning of this Act.

(11) Notwithstanding any provision of this Title, an association may invest its funds in any loan or purchase which is permitted to a

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federal savings and loan association doing business in this territory (whether such, association is doing such business or not).

**SOURCE:** GC §41451.

**§ 130103. Acquisition, Disposition and Encumbrance of Property.**

Any association may purchase at any sale, public or private, any real or personal property upon which it may have a mortgage, judgment, trust deed, pledge, lien or other encumbrance, or in which it may have an interest, and may acquire any real or personal property which may be conveyed or transferred to it in full or partial satisfaction, discharge or release of loans for which such property is security. Any association may sell, convey, lease, exchange, improve, repair, mortgage, convey in trust, pledge or encumber any real or personal property purchased or acquired by it in the manner authorized or permitted by this section; provided, however, that except with the consent of the commissioner, no association shall mortgage, convey in trust, pledge, or encumber any property owned by it and used primarily as the principal office or branch of such association; and provided further, that, except with the consent of the commissioner, no association shall (a) exchange any real property owned by it for any property other than investments expressly permitted by Section 130102 of this act, or real property, nor (b) mortgage, convey in trust or encumber any real property owned by it nor (c) assume the payment of any mortgage or deed of trust upon any real property received by it in any such exchange.

**SOURCE:** GC §41452.

**§ 130104. Purchases, Sales and Pledges of Loans.**

An association may purchase any notes or other obligations, together with the mortgages, trust deeds or other security therefor, if such notes or obligations evidence loans which, at the time of such purchase, such association would be authorized to make pursuant to this act in an amount at least equal to the amount so purchased. No association shall sell, exchange, transfer, pledge, hypothecate or otherwise dispose of or encumber any notes or other obligations held by it, evidencing any loan made or purchased by it, or the mortgages, trust deeds or other security therefor, except with the approval of the commissioner; provided, that any association may, without the necessity of obtaining such approval, sell, exchange, transfer, pledge, hypothecate or otherwise dispose of or encumber any of the notes or other obligations held by it, together with

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the mortgages, trust deeds and other security therefor, to the extent permitted by Section 130105 or Section 130106 of this act.

**SOURCE:** GC §41453.

**§ 130105. Borrowings.**

No association shall be deemed to borrow money through the issuance of investment certificates. No association shall borrow money except as authorized by this chapter. Except with the approval of the commissioner, no association may borrow money for a period of more than one year, nor shall the aggregate amount of all borrowing of any association in force at any one time, excluding borrowing from Federal home loan banks, or other similar Federal agencies, exceed five per cent of the then total assets of such association. No excess loan made to any association, however, shall be invalid or illegal as to the lender. An association, as security for such borrowing, may pledge, hypothecate or otherwise encumber any of the notes, bonds or other securities held by such association, together with the mortgages, trust deeds and other security therefor; provided, that except with the approval of the commissioner, the unpaid principal amount of such notes, bonds or other securities when so pledged, hypothecated or otherwise encumbered shall not exceed two hundred per cent of the amount borrowed by such association.

**SOURCE:** GC §41454.

**§ 130106. Borrowings From, Selling or Transferring to Federal Agencies.**

An association may borrow from or sell, exchange, transfer, pledge, hypothecate or otherwise encumber or dispose of any of the notes or obligations held by it, together with the mortgages, trust deeds and other security therefor to a Federal home loan bank or other similar Federal agency to the Reconstruction Finance Corporation, the Federal National Mortgage Association, the Housing and Home Finance Administration, or to any other similar organization, association or Federal agency or administration.

**SOURCE:** GC §41455.

**§ 130107. Security for Loans.**

For each loan made by a savings and loan association a note or notes or other obligation or obligations expressing a rate of interest must

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be executed by the borrower and must be secured, except as otherwise permitted under Section 130120 or 130121, (a) by a first mortgage or first trust deed upon fee title to real property or upon a leasehold interest in real property under a lease having a period of not less than fifty years to run from the date of the loan, (b) by the pledge of shares or investment certificates of such association and/or (c) by the pledge of bonds or other collateral. Two or more mortgages or trust deeds, all owned or purchased by the same association, shall collectively be deemed a first mortgage or a first trust deed, as the case may be, for all the purposes of this act, if they create successive liens or charges upon the same real property or leasehold interest and if one thereof is in fact a first mortgage or first trust deed. In lieu of making two or more separate loans, each secured by mortgage, trust deed or pledge of one or more properties or leasehold interests or securities in amounts permitted by this act, an association may make a single loan secured by all such properties, by all such leasehold interest and/or by all such securities, if the principal amount of such single loan does not exceed the aggregate of the principal amounts which would be permitted for such separate loans. Notwithstanding anything to the contrary in this act, any security, whether or not the same be a first encumbrance or charge, on property, either improved or unimproved and either real or personal, may be taken at any time and without limit as additional security for any loan held by such association.

**SOURCE:** GC §41456.

**§ 130108. Loan Plans.**

Loans may be made only upon the definite contract plan. Subject to the provisions of this act loans upon the definite contract plan shall be repayable at a designated time or in installments to be specified in the notes or other obligations evidencing such loans.

**SOURCE:** GC §41457.

**§ 130109. Loans Terms.**

For the purpose of this act, an amortized loan shall be one which provides for payments to be made on the principal in installments to be paid at regular intervals at least semiannually and to commence not later than one year after the date of the loan. Such installments may include interest and either as to principal alone or as to combined principal and interest shall be at least of a sufficient amount so that the smallest installment provided in the note evidencing said loan (other, than the last

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installment) if continued at such regular intervals would result in paying the entire principal in not more than 20 years (or, in the case of loans pursuant to Section 130120 or 130121, within 25 years) from the due date of the first installment, whether or not such loan be written for a shorter period. Such loans may provide for payment of interest or principal or both, in addition to such regular installments and in the event such regular installments are not sufficient to pay the entire principal within the term thereof, such loans must provide that the entire amount unpaid come due and payable within not more than 6 months after the due date of the last regular installment; provided, however, that the commissioner may by rules permit, and prescribe a longer maximum term than as herein provided in the case of amortized loans upon particular classes of security which classes he shall have power to prescribe and define.

Loans may be made by an association which may or may not provide for payments on account of the principal thereof during an initial period not to exceed three years. If any loan does not provide for the payment, commencing not later than one year after the date thereof, of installments either of principal alone or of combined principal and interest at a rate at least equal to the rate hereinabove provided for an amortized loan, the same shall not be an amortized loan for the purpose of Section 130111 of this act; but for the purpose of Section 130115 of this act, any loan held by an association may be classified as an amortized loan during any period within which payments are being made, or within which the note or obligation representing such loan provides for payments to be made, of installments either of principal alone or combined principal and interest thereof at a rate not less than that hereinabove provided for an amortized loan.

The provisions of this section are subject to the provisions of Section 130120 and of Section 130121.

**SOURCE:** GC §41458.

**§ 130110. Association to Pay Interest on Home Mortgage Escrow Account.**

An association shall pay interest at a rate not less than that paid on regular passbook savings accounts as calculated by the individual savings and loans on Guam on home mortgage escrow accounts.

**SOURCE:** GC §41458.1. Added by P.L. 15-95:2.

**§ 130111. Loans Upon Real Property.**

Loans may be made upon the security of improved real property in an amount not in excess of 60 percent of the appraised value of such real property; provided, however, that amortized loans may be made in an amount not in excess of 70 percent of the appraised value of such real property; provided further, that amortized loans upon the security of improved real property may be made in an amount not in excess of 80 percent of the appraised value of such real property if such appraised value does not exceed ten thousand dollars (\$10,000), or not in excess of 80 percent of the first ten thousand dollars (\$10,000) of such appraised value if it exceeds ten thousand dollars (\$10,000), plus 70 percent, of the remainder of such appraised value, subject to the following conditions in the case of each such loan exceeding 70 percent: (1) the principal improvement on such real property shall consist of a single family dwelling; and (2) the note or other obligation evidencing such loan shall provide for reduction of principal by monthly installments commencing in the case of construction loans not later than nine months after the date of such loan, and in case of any other loan not later than three months after the date of such loan.

Loans may be made upon the security of unimproved real property in an amount not in excess of  $33 \frac{1}{3}$  percent of the appraised value of such real property.

In respect of any loan made upon the security of real property where it is agreed and/or contemplated that improvements will be made thereon to become a part of such security, said real property shall be deemed to be improved real property and the value of such proposed improvements shall be included in the appraised value of such real property; provided, however, that at no time shall the amount advanced by the association on such loan exceed the ratio of loan to value authorized by this section in respect to such loan, excluding from such value the value of such proposed building or buildings when completed by including in such value the value of such building or buildings to such time.

The term *real property* as used in this section and in Sections 130115, 130120 and 130121, whether unmodified or modified by the terms *improved* or *unimproved*, includes (a) fee title to real property, and (b) a leasehold interest in real property under a lease having a period of not less than fifty years to run from the date of the loan. If the security is



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a leasehold interest, the value appraised shall be the value of such leasehold interest and not of the fee title.

The provisions of this section are subject to the provisions of Section 130120 and of Section 130121.

**SOURCE:** GC §41459.

**§ 130112. Loans Upon Shares and Investment Certificates.**

Loans secured by the pledge of shares or investment certificates of the lending association may be made to the extent of not more than 90 per cent of the then value of such shares or investment certificates. Any loans which are wholly secured by the pledge of such shares or investment certificates, together with the interest and arrearages due or accrued thereon, may be repaid at any time without the payment of any premium or bonus interest, and upon such payment being made the security pledged therefor shall be surrendered.

**SOURCE:** GC §41460.

**§ 130113. Loans Upon Collateral Security.**

Loans may be made by any association secured by the pledge of notes or other obligations evidencing loans which are secured by property or securities upon which the association might make a direct loan, if such collateral loans do not exceed 90 per cent of whichever of the following is the lessor: (a) the unpaid principal of the notes or other obligations pledged as collateral security or (b) the amount which the association would be permitted to make as a direct loan on the same property or securities. Loans secured by the pledge of bonds, treasury certificates, notes, mortgage participation certificates or other securities referred to in subdivisions (3), (4), (5), (6) and (7) of Section 130102 may be made by any association to the extent of not more than 90 per cent of the unpaid principal amount or market value thereof, whichever is less, if at the time of such collateral loans thereon such association would be authorized pursuant to this act to invest in such bonds, treasury certificates, notes, mortgage participation certificates or other securities in an amount at least equal to such unpaid principal amount or market value, whichever is less.

**SOURCE:** GC §41461.

**§ 130114. Arrears in Payments.**

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Whenever a borrower shall be in arrears in the payment of his interest or loan installments, or shall be in default under the terms of any pledge, deed of trust or mortgage securing his loan, the whole loan shall become due at the option of the association, and the association may proceed to enforce collection upon such loan or the securities held by the association. Upon or after exercising such option, the withdrawal value of all shares pledged as collateral security shall be applied to the payment of the loan, and said shares from the time of such application shall be deemed surrendered to the association and cancelled.

**SOURCE:** GC §41462.

**§ 130115. Limitation as to Classes of Loans.**

No association shall make any loan other than an amortized loan unless at least ninety per cent of the unpaid principal of all its loans then in force be amortized loans as defined in Section 130109 of this act, and no association shall make any loan other than an amortized loan payable in monthly installments unless at least eighty per cent of the unpaid principal of all its loans then in force shall be amortized loans, the note or obligation for which provides for installments of principal to be paid monthly thereon. No association shall make any loan upon the security of unimproved real property if the unpaid principal of all its loans then in force on unimproved real property exceeds three percent of the unpaid principal of all its loans of all classes then in force.

The limitations of this Section 130115 shall not apply to loans made pursuant to Section 130101 of this act.

**SOURCE:** GC §41463.

**§ 130116. Limitation on Single Loans.**

Except with the consent of the Commissioner, no association shall hereafter make any one loan in an amount exceeding three percent (3%) of the book value of its assets; but the provisions of this section shall not apply to any loans which do not exceed twenty thousand dollars (\$20,000.00) principal each.

**SOURCE:** GC §41464.

**§ 130117. Limitation on Loan Commitments.**

Except with the consent of the Commissioner, no association shall commit itself to make any loans for amounts in excess of the total of (a) amount of cash available for loan purposes, (b) amount of cash which

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can readily be realized upon the sale of redemption of investments made pursuant to § 130102 of this Act. (c) amount of credit available for loan purposes from the Federal Home Loan Bank or other financial institutions.

Except with the consent of the Commissioner, no association shall hereafter make any construction loan or loans to any one borrower, or under any one transaction, or applicable to any one project, which loan or loans are in excess of whichever of the following is the lesser: (a) ten percent (10%) of its total assets, or (b) an amount equal to the sum of its capital, surplus, undivided profits, loan reserve and federal insurance reserve, and such other reserves as the Commissioner may prescribe; provided however, that this limitation shall not apply to any of the following:

(a) Loans upon which associations hold commitments for insurance by the Federal Housing Administrator, pursuant to § 130120 of this Act, or

(b) Loans which are partially guaranteed by, or insured by, the Administrator of Veterans Affairs, pursuant to § 130121 of this Act.

(c) Loans which have been repaid or sold without recourse.

**SOURCE:** GC §41465.

**§ 130118. Appraisers to be Approved.**

No loan shall be made upon the appraisal of, nor shall compensation for any appraisal be paid to, any appraiser, officer or member of any committee, who shall not have been first approved in writing by the board of directors for such association. Such approval may be subject to such limitations as may be provided by the board, and may be revoked at any time, notice thereof being given to the Commissioner.

**SOURCE:** GC §41466.

**§ 130119. Loans, Specifically Forbidden and Penalties.**

No loans shall be made, for himself or as agent or as partner of another, directly or indirectly, to any director or officer of any association by such association, except on the security of a first lien on the home or combination of home and business property owned and occupied by such director or officer and except that loans may be made to any corporation in which any director or officer of such association may be a minority stockholder, on authorization of or confirmation

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within thirty (30) days after making such loan by a majority of all the directors of such association and the affirmative vote of all the disinterested directors of such association present at the meeting authorizing or confirming such loan; provided, however, that such loan shall in all other respects conform to and comply with the other provisions of this Act. Such interested director or officer shall not vote or participate in any manner in the action of the board upon such loan. Such authorization or confirmation shall be entered upon the records of minutes of such association. The fact of making such loan, the names of the directors authorizing or confirming such loan, the corporate name of the borrower, the name of each director or officer of such association who is a stockholder, officer or director of the corporation to which such loan is made, the amount of stock held by him in such borrowing corporation, the amount of such loan, the rate of interest thereon, the time when such loan will become due, the amount, character and value of the security given therefor and the fact of final payment, when made, shall be forthwith reported in writing by the association to the Commissioner; provided, that any loan made to any corporation of which any director or officer of such association owns not more than five percent (5%) of the paid-in capital of such borrowing corporation and any loan made to any corporation of which any two (2) or more directors or officers of such association own not more than twenty percent (20%) of the paid-in capital of such borrowing corporation, need not be reported to the Commissioner. No loan may be made to any corporation a majority of the stock of which is owned or controlled by any one (1) or more of the directors or officers, or officers and directors, of such association collectively, except with the previous consent of the Commissioner. No officer, director or employee of an association shall receive from such association, and it shall be unlawful for such association to any officer, director, or employee of such association, any commission, emolument, gratuity or reward based on the volume or number of loans made, or based on the interest or fees collected thereon; provided, however, that nothing in this section shall be construed to prohibit or limit the receipt or payment of salaries of officers, directors and employees, of commissions to agents whether or not based on the volume or number of loans or on the interest or fees collected thereon, or of bonuses to officers and employees or any of them if such bonuses are not based on the volume or number of loans made or on the interest or fees collected thereon; provided. that the legislative intent is not to

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interfere with any presently existing contract; provided, that if such bonuses are based on the profits of the association for any period, payment thereof shall not be made earlier than ten (10) days before the expiration of such period and shall be based on the profits of such period or on an estimate thereof made in good faith. Any officer or director of any association who knowingly violates any of the previous provisions of this section shall be guilty of a felony. Any officer, director or employee of any association who asks or receives or consents or agrees to receive any commission, emolument, gratuity or reward or any money, property or anything of value for his own personal benefit or of personal advantage for procuring or endeavoring to procure for any reason, firm or corporation any loan from such association shall be guilty of a felony. It shall be unlawful for any association to loan any of its funds upon any of its stock as security. It shall be unlawful for any association to make any loan to, or purchase any loan or investment from, the Commissioner or any deputy, attorney, examiner, accountant or appraiser appointed or employed by him, except under security of a first loan on the home or combination of home and business property owned and occupied by such Commissioner, deputy, attorney, examiner, accountant or appraiser. Any officer or director of an association who shall make any such loan for and on behalf of any association shall be personally liable to such association for the full amount thereof and shall also be guilty of a felony. It shall be unlawful for any association to make or purchase any loan or investment not authorized or permitted by this Act; and any officer or director who on behalf of any such association shall knowingly make or purchase any loan or investment not authorized by this Act, or who shall knowingly consent thereto, shall be personally liable to such association for the full amount of any such loan or investment, and he shall also be guilty of a public offense, and shall be punished by imprisonment not exceeding one (1) year or by a fine not exceeding one thousand dollars (\$1,000.00), or by both such fine and imprisonment.

**SOURCE:** GC §41467.

**§ 130120. National Housing Act Loans and Insurance.**

An association (a) either with or without security, may make loans, advance credit, and purchase obligations representing loans and advances of credit, pursuant to Title 1 of the National Housing Act, as amended, if the Federal Housing Administrator shall insure such association against losses which it may sustain as a result of such loans, advances of credit

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and purchases made by such association for such purposes, to the extent of 20 percent of the total amount of the loans, advances of credit and purchase made by such association for such purposes on and after the date of the enactment of the National Housing Act Amendments of 1938; (b) may make loans upon the security of improved real property pursuant to the provisions of this section and pursuant to Title 2 and Title 6 of the National Housing Act, as amended, if the Federal Housing Administration pursuant to Title 2 or Title 6 have insured, or shall made a commitment to insure, such association against losses of principal which it may sustain as a result of such loans; and (c) may secure insurance pursuant to said National Housing Act. No law of this territory prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to this section.

**SOURCE:** GC §41468.

**§ 130121. Servicemen's Loans.**

Notwithstanding anything to the contrary contained in this act, (a) if a portion of a loan secured by real property is guaranteed by the Administrator of Veteran's Affairs under Title 3 of the "Servicemen's Readjustment Act of 1944" or any act of Congress supplementary or amendatory thereof, such loan may be in an amount not in excess of the sum of (1) the amount otherwise permissible under this act plus (2) the portion of such loan so guaranteed, and (b) an association may make any loan (whether secured or unsecured, and if secured whether or not secured by first mortgage or first trust deed and irrespective of percentage of loan to value) provided the full amount of such loan is guaranteed by the Administrator of Veteran's Affairs under Title 3 of the "Servicemen's Readjustment Act of 1944" or any act of Congress supplementary or amendatory thereof. An association either with or without security may make and purchase loans pursuant to Title 3 of the "Servicemen's Readjustment Act of 1944" or any act of Congress supplementary or amendatory thereof if the Administrator of Veteran's Affairs thereunder shall enter into an insurance agreement pursuant thereto whereby he will reimburse such association for losses incurred on such loans up to 15 per cent of the aggregate of loans so made or purchased by it. If the whole or any portion of a loan is guaranteed or

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insured by the Administrator or Veteran's Affairs under Title 3 of the Servicemen's Readjustment Act of 1944" or any act of Congress supplementary or amendatory thereof, such loan may be made on any terms, plans, practices or procedures now or hereafter authorized or required by the Administrator of Veteran's Affairs thereunder, provided such terms, plans, practices or procedures are approved by the commissioner as affording reasonable protection to associations and investors.

**SOURCE:** GC §41469.

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