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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 6. INSURANCE COVERING LAND [12340 - 12661] (*Part 6 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 2A. Mortgage Guaranty Insurance [12640.01 - 12640.20] (*Chapter 2A added by Stats. 1961, Ch. 719.*)

ARTICLE 1. Definitions [12640.01 - 12640.02] (*Article 1 added by Stats. 1961, Ch. 719.*)

12640.01. This chapter may be cited as the Mortgage Guaranty Insurance Act.

(*Added by Stats. 1961, Ch. 719.*)

12640.02. The definitions set forth in this article shall govern the construction of the terms used in this chapter but shall not affect any other provisions of this code.

(a) "Mortgage guaranty insurance" means:

(1) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a first lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or buildings designed for occupancy by not more than four families.

(2) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a junior lien or charge on real estate, provided the improvement on the real estate is a residential building or a condominium unit or building designed for occupancy by not more than four families.

(3) Insurance against financial loss by reason of nonpayment of principal, interest, and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate, provided the improvement on the real estate is a building or buildings designed for occupancy by five or more families or designed to be occupied for industrial or commercial purposes.

(4) Insurance against financial loss by reason of nonpayment of rent and other sums agreed to be paid under the terms of a written lease for the possession, use, or occupancy of real estate, provided the improvement on the real estate is a building or buildings designed to be occupied for industrial or commercial purposes.

(b) (1) "Authorized real estate security" for the purposes of this chapter means either (A) real estate, plus the balance of any pledged cash account, pledged borrower retirement account, or collateralized guaranty agreement contracted for by parents, blood relatives, employers, or nonprofit corporations for the benefit of the borrower; or (B) real estate securing a note, bond, or other evidence of indebtedness by a junior mortgage, deed of trust, or other instrument constituting a junior lien or charge on the real estate, which, when combined with all existing mortgage loan amounts, does not exceed a total indebtedness equal to 103 percent of the fair market value of the real estate at the time the junior loan is made, provided that, in determining the foregoing 103-percent limitation, if the loan securing the junior lien is an equity line of credit loan, the full amount of the line of credit to be secured by the junior lien shall be considered the amount of the loan, and further provided, in all cases that both of the following are true:

(i) The real estate loan secured in this manner is any type of loan that a bank, savings association, mortgage banker, credit union, mortgage loan broker, or insurance company, which is supervised and regulated by a department of this state or an agency of the federal government, is authorized to make or arrange, or would be authorized to make or arrange, disregarding any requirement applicable to an institution that the amount of the loan not exceed a certain percentage of the value of the real estate.

(ii) The improvement on the real estate is a building or buildings designed for occupancy as specified by paragraphs (1), (2), and (3) of subdivision (a).

(2) The lien on the real estate may be subject and subordinate to the following:

(A) The lien of any public bond, assessment, or tax, when no installment, call, or payment of or under the bond, assessment, or tax is delinquent.

(B) Outstanding mineral, oil or timber rights, rights-of-way, easements or rights-of-way or support, sewer rights, building restrictions or other restrictions or covenants, conditions or regulations of use, or outstanding leases upon the real property under which rents or profits are reserved to the owner thereof.

(3) "Authorized real estate security" also means a stock or membership certificate issued to a tenant-stockholder or resident-member by a completed fee simple cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code and Section 216 of the United States Internal Revenue Code.

(c) "Contingency reserve" means an additional premium reserve established for the protection of policyholders against the effect of adverse economic cycles.

(d) "Policyholders surplus" means the aggregate of capital, surplus, and contingency reserve.

(Amended by Stats. 2006, Ch. 538, Sec. 473. Effective January 1, 2007.)