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DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.*)

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.*)

TITLE 4. LOAN [1884 - 1923.10] (*Title 4 enacted 1872.*)

CHAPTER 4. Shared Appreciation Loans of E.R.I.S.A. Pension Funds [1917.010 - 1917.075] (*Chapter 4 repealed and added by Stats. 1982, Ch. 466, Sec. 11.*)

ARTICLE 2. Definitions [1917.020- 1917.020.] (*Article 2 added by Stats. 1982, Ch. 466, Sec. 11.*)

1917.020. For purposes of this chapter:

(a) "Adjusted fair market value" means all of the following:

(1) The net sale price, in the case of a bona fide sale made in good faith prior to the maturity date of the shared appreciation loan, but excluding any sale upon a foreclosure or trustee's sale pursuant to Section 726 of the Code of Civil Procedure or Section 2924.

(2) In all other cases, the amount of value of the property specified in the most recent annual appraisal performed pursuant to Section 1917.040 or 1917.042.

(b) "Borrower's cost of the property" means the total cost to the borrower incident to the purchase of the property, including documentary transfer taxes, escrow and recording fees, and title insurance premiums.

(c) "Contingent deferred interest" means the sum resulting upon multiplying the net appreciated value by one-third.

(d) "Cost of capital improvements" means the amount of the credit, if any, determined pursuant to Article 5 (commencing with Section 1917.050).

(e) "Lender" means any person who makes a shared appreciation loan on behalf of a pension fund specified in Section 1917.030. Subsequent to an assignment of a shared appreciation loan to a pension fund pursuant to Section 1917.030, "lender" shall mean the pension fund assignee (or any subsequent assignee) and its agents designated to service the shared appreciation loan.

(f) "Net appreciated value" means the adjusted fair market value less the sum of the borrower's cost of the property and the cost of capital improvements.

(g) "Net sale price" means the gross sale price less expenses of sale actually paid by the borrower, including real estate commissions, advertising, documentary transfer taxes, legal, escrow and recording fees, and title insurance premiums.

(h) "Prevailing rate" means the weighted average yield accepted by the Federal National Mortgage Association in its most recent free market system auction for four-month conventional mortgage commitments or, if the Federal National Mortgage Association alters its free market system auction, then the system which is adopted by the Federal National Mortgage Association which substantially replaces or supersedes the present free market system auction for four-month commitments, or if no auction or equivalent thereof has been conducted within the six months immediately preceding the date the application for a shared appreciation mortgage loan is executed, the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco.

(i) "Shared appreciation loan" means any loan made pursuant to this chapter upon the security of owner-occupied real property of a type specified in Section 1917.030, and in connection with which the lender has a right to receive a share of the appreciation in the value of the security property. "Shared appreciation loan" includes a deed of trust and any evidence of debt issued in connection with the loan.

(Amended by Stats. 1984, Ch. 1267, Sec. 1. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

