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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 Shared Appreciation Loans of E.R.I.S.A. Pension Funds [1917.010 - 1917.075] (*Chapter 4 repealed and added by Stats. 1982, Ch. 466, Sec. 11.)*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 7. Notices and Disclosures [1917.070 - 1917.075] (*Article 7 added by Stats. 1982, Ch. 466, Sec. 11.)*

1917.070. (a) The disclosures made pursuant to this chapter, as required, shall be the only disclosures required to be made pursuant to state law for shared appreciation loans, notwithstanding any contrary provisions applicable to loans not made under this chapter, except those, if any, that may be required by reason of the application of Division 1 (commencing with Section 25000) of the Corporations Code, or Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code. A lender may, but shall not be required to, supplement the disclosures required by this article with additional disclosures that are not inconsistent with the disclosures required by this article.

(b) When very specific language is prescribed by this chapter, substantially the same language shall be utilized if possible, but reasonably equivalent language may be used to the extent necessary or appropriate to achieve a clearer or more accurate disclosure.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

1917.071. (a) Each lender offering shared appreciation loans shall furnish to a prospective borrower, on the earlier of the date on which the lender first provides written information concerning shared appreciation loans from such lender or provides a loan application form to the prospective borrower, a written disclosure as provided in this section.

(b) The disclosure shall be entitled "INFORMATION ABOUT THE (Name of Lender) SHARED APPRECIATION LOAN," and shall describe the operation and effect of the shared appreciation loan including a brief summary of its terms and conditions, together with a statement consisting of substantially the following language, to the extent applicable to such loan:

INFORMATION ABOUT THE [Name of Lender] SHARED APPRECIATION LOAN

(Name of Lender) is pleased to offer you the opportunity to finance your home through a shared appreciation loan.

Because the shared appreciation loan differs from the usual mortgage loan, the law requires that you should read and understand before you sign the loan documents.

The loan will bear a stated rate of interest which will be one-third below the prevailing market interest rate. In exchange for a stated interest rate which is below the prevailing rate, you will be obligated to pay us additional interest later. This additional interest is called "contingent deferred interest."

Contingent Deferred Interest

This loan provides that you, as borrower, must pay to us, as lender, as contingent deferred interest, one-third of the net appreciated value of the real property which secures the loan. This contingent interest is due and payable when the property is sold or transferred, when the loan is paid in full, upon any acceleration of the loan upon default, or at the end of the term of the loan, whichever first occurs. The dollar amount of contingent interest which you will be required to pay cannot be determined at this time. If the property does not appreciate, you will owe us nothing.

Your obligation to pay contingent interest will reduce the amount of the appreciation, if any, that you will realize on the property. This appreciation will not produce a real gain in your equity in the property, unless the appreciation rate exceeds the general inflation rate,

but you will be required to pay a portion of the appreciation as contingent interest without regard to whether the appreciation has resulted in a real gain.

When you sell or refinance your home, you normally will receive enough cash to pay the shared appreciation loan balance, accrued interest, prepayment penalty (if applicable), the contingent interest, and expenses of sale. However, if you sell with only a small downpayment, you may possibly not receive enough cash to pay the contingent interest, and, in that event, it will be necessary for you to provide cash from other funds.

If you do not sell the property before the end of the term of this loan, you will need to refinance this loan at that time. The term of this loan is (duration) years. We will offer to refinance the outstanding obligation, including any contingent interest, at that time. If you refinance this loan, your monthly payments may increase substantially if the property appreciates significantly or if the interest rate on the refinancing loan is much higher than today's prevailing rates. In general, the more your property appreciated, the larger will be the amount of the contingent interest that you will have an obligation to pay or refinance.

The contingent interest will not become due if title to the property is transferred on your death to a spouse, or where a transfer results from a decree of dissolution of a marriage and a spouse becomes the sole owner.

	Calculating the Contingent Interest
Contingent interest will be calculated as follows:	
	FAIR MARKET VALUE OF THE PROPERTY (Sale price or amount of value determined by appraisal.)
–(less)	BORROWER'S COST OF THE PROPERTY (This amount includes certain costs paid by you incident to the purchase.)
–(less)	COST OF CAPITAL IMPROVEMENTS MADE BY YOU IN ANY 12-MONTH PERIOD (Must exceed \$2,500 in value. The actual amount may be the lesser of actual cost or appraised value.)
_(equals)	NET APPRECIATED VALUE
×(times)	ONE-THIRD PERCENTAGE OWED TO LENDER
_(equals)	TOTAL CONTINGENT INTEREST

Determining Net Appreciated Value

We are entitled to receive one-third of the net appreciated value of the property as contingent interest. As explained above, net appreciated value equals (1) the fair market value of the property at the time of the sale or appraisal, less (2) your cost of the property, less (3) the value of any capital improvements for which you are entitled to credit.

Determining Fair Market Value

Fair market value is the sale price of the property in the case of a bona fide sale of the property made before the maturity of the shared appreciation loan, excluding certain foreclosure related sales. In all other cases, fair market value is determined by our most recent annual appraisal of the property. If you desire to contest the amount of our annual appraisal, you may obtain another appraisal by a qualified independent appraiser within 30 days after the anniversary date of the loan and send a copy of the appraisal to us by first-class mail within that 30-day period. If your appraiser's appraisal is lower than our appraisal, the annual appraisal shall equal one-half the sum of the two appraisals.

Determining Value of Capital Improvements

The cost or value of certain capital improvements (but no maintenance or repair costs) may be added to your cost of the property for the purpose of determining the net appreciated value, but only if the procedures set forth in the shared appreciation loan documents are followed. It is important to note that capital improvements completed and for which a credit is claimed in any 12-month period must cost or be appraised at more than two thousand five hundred dollars (\$2,500). The lesser of the cost or appraised value will control. However, if you have performed at least half the value of the labor or other work involved, then the appraised value of the improvements will control. The appraised value of the improvements shall be considered to be the increase in the value of the property resulting from the improvements. You will receive no credit for improvements that are not appraised at more than two thousand five hundred dollars (\$2,500).

Cost of Appraisals

The terms of this loan call for annual appraisals of the property, and for additional appraisals to value improvements or in the event of a dispute regarding the value of the property or improvements. The cost of the appraisals will be paid as follows:

Your Right to Refinance This Loan

If the property is not sold or transferred prior to the maturity of the loan, we will offer to refinance the outstanding obligation on the loan, including any contingent interest. We will offer refinancing at the then prevailing interest rate either directly or through another mortgage lender.

The terms of the refinancing loan will be like home loans offered at that time by banks or savings and loan associations, but you are assured that at least one of the options will be a fully amortizing 30-year loan. The interest rate on the refinancing loan may be either fixed or adjustable, as provided in your shared appreciation loan.

We will not be permitted to look to the forecast of your income in offering to refinance. The interest rate and monthly payment upon refinancing cannot be determined at this time. They may be either more or less burdensome to you than the currently prevailing rates and terms.

Tax Consequences

Use of the shared appreciation loan will have income tax or estate planning consequences which will depend upon your own financial and tax situation. FOR FURTHER INFORMATION, YOU ARE URGED TO CONSULT YOUR OWN ACCOUNTANT, ATTORNEY OR OTHER FINANCIAL ADVISER. THE QUESTIONS YOU SHOULD DISCUSS INCLUDE THE TAX DEDUCTIBILITY OF THE CONTINGENT INTEREST PAYMENT, YOUR RIGHT TO UTILIZE THAT DEDUCTION IN YEARS OTHER THAN THE YEAR IT IS PAID, AND THE EFFECT OF THE LOSS OF TAX BENEFITS BEFORE THAT TIME.

Other Important Information

(Here insert additional description, if necessary, of the operation and effect of the shared appreciation loan.

The foregoing describes our shared appreciation loan, includes a summary of all of its important provisions, and informs you of some of the risks of a shared appreciation loan.

If your loan application is accepted by us, we will provide you with more information about your particular shared appreciation loan, which will include a comparison with conventional mortgages, an illustration of the possible increase in your monthly payments upon refinancing, and other important information.

Before you enter into a shared appreciation loan with us, we recommend that you and your attorney or tax accountant review the loan documents for the full text of all of the terms and conditions which will govern the loan.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

1917.072. (a) Each lender making a shared appreciation loan shall also furnish to the prospective borrower, prior to the consummation of the loan, the disclosures required by Subpart C of Federal Reserve Board Regulation Z (12 CFR Part 226), including 12 CFR Section 226.18(f), to the extent applicable to the transaction.

(b) The disclosure made pursuant to paragraph (a) and Regulation Z shall be based on the fixed interest rate of the shared appreciation loan, and shall include a description of the shared appreciation feature, including (1) the conditions for its imposition, the time at which it would be collected, and the limitations on the lender's share, as required by the Federal Reserve Board in the

information published by the Board at 46 Federal Register 20877 and 20878 (April 7, 1981), and (2) the lender's share of the net appreciated value and the prevailing interest rate as defined in Section 1917.120(h).

(c) The disclosure made pursuant to paragraph (a) and Regulation Z shall be accompanied by (1) one or more transaction-specific examples of the operation and effect the shared appreciation loan, and (2) the following charts, comparing the shared appreciation loan and a conventional loan made at the prevailing interest rate, and illustrating the possible increase in the monthly payments, and the possible annual percentage rate of finance charge, on the assumptions therein stated:

Chart 1

CONVENTIONAL MORTGAGE AT ____%	
If the same loan balance were financed under a conventional, 30-year, fixed-rate, level-payment mortgage, your monthly payments would be:	
Years 1–30	
\$ ____/mo.	

Chart 2

IF YOU REFINANCE THIS TRANSACTION AT ____%	
If your property appreciates at 10% per year, and if your loan balance (including contingent deferred interest due) at the end of ____ years is refinanced at ____% (the prevailing market interest rate now), your monthly payments will be:	
Years 1–____ Refinancing loan	
\$ ____/mo. ____ \$ ____/mo.*	

* Refinancing loan, assuming a conventional, 30-year, fixed-rate, level-payment mortgage. Other mortgage instruments, e.g., graduated-payment or shared appreciation, if available, may result in lower payments.

Chart 3

APR IF PROPERTY APPRECIATES AT 10%	
If your property appreciates at 10% per year, the total finance charge on your shared appreciation loan (including contingent interest) will equal \$____, and the annual percentage rate of the total finance charge (including contingent interest) will equal ____%.	

(d) The disclosures required by paragraph (c) shall be separated from the disclosures required by Regulation Z, and may be presented in the document containing the disclosures required by Regulation Z or in one or more separate documents.

(e) Except to the extent that this section requires disclosure of additional information not required by Regulation Z, compliance with the applicable credit disclosure requirements of Regulation Z shall constitute compliance with the requirements of this section.

(f) The disclosures prescribed in Section 1917.171 shall be physically attached to the disclosures required by this section and Regulation Z at the time such disclosures are furnished to the borrower.

(g) In the event federal law is amended so that this section is inconsistent therewith, the federal law shall prevail as to the disclosures required by this section.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

1917.073. Each lender making a shared appreciation loan shall additionally furnish to the prospective borrower, prior to the consummation of the loan, a statement containing the following information:

IMPORTANT INFORMATION ABOUT YOUR SHARED APPRECIATION LOAN

You are being offered a shared appreciation loan. Before you decide to accept this loan read this statement, which is designed to provide important information that you should consider.

1. Prevailing interest rate: __%.
2. Fixed interest rate on this loan: __%.
3. Lender's share of net appreciated value: one-third.
4. Amount of this loan: \$__.
5. Amount of the monthly payments: \$__.
6. Term of this loan: __ years.
7. Amortization period on which payments are calculated: 30 years.
8. Prepayment penalty (if any) __.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

1917.074. Each deed of trust and evidence of debt executed in connection with a shared appreciation loan shall contain a statement, printed or written in a size equal to at least 12-point bold type, consisting of substantially the following language: "THIS IS A [DURATION] SHARED APPRECIATION LOAN. THE LENDER'S INTEREST INCLUDES ONE-THIRD OF THE NET APPRECIATED VALUE OF THE PROPERTY. FOR FURTHER INFORMATION, READ THE FLYER "INFORMATION ABOUT THE [NAME OF LENDER] SHARED APPRECIATION LOAN.'" The notice required by this section shall be completed to state the term of the shared appreciation loan.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)

1917.075. Where, pursuant to any provision of law, the lender is required to disclose the amount of interest due or to be due under a shared appreciation loan and the amount of contingent deferred interest due or to be due is not known, the lender may disclose that fact and specify in the disclosure the method for calculating contingent deferred interest.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 11. Inoperative January 1, 1990, by Stats. 1982, Ch. 466, Sec. 11.5.)