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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 5. Shared Appreciation Loans [1917.110 - 1917.175] (*Chapter 5 repealed and added by Stats. 1982, Ch. 466, Sec. 12.)*

ARTICLE 4. Determination of Fair Market Value [1917.140 - 1917.142] (*Article 4 added by Stats. 1982, Ch. 466, Sec. 12.)*

1917.140. The borrower may, at any time for the purpose of facilitating a sale of the property, request the lender to stipulate the minimum amount which the lender considers to be the fair market value of the property for the purposes of this chapter. The lender shall advise the borrower within 10 working days of the receipt of such request of the lender's estimate of the minimum fair market value. The estimate shall remain effective for purposes of this section for 90 days. For the purposes of this section and Section 1917.141, a sale of the property shall be deemed to have occurred within the 90-day period if there is a valid contract entered by an offer and acceptance within the 90-day period for the sale of the property. The lender's stipulation shall remain effective for an additional 60 days following execution of the sale contract to permit completion of the sale and close of escrow.

The lender shall not be liable to the borrower or any other party on account of damages alleged as a result of providing the stipulation or estimate required by this section if such stipulation or estimate is made in good faith. Evidence of lack of good faith shall include, but not be limited to, a showing that the lender has willfully or repeatedly overrepresented the fair market value of other properties in similar situations, applying equitable principles to those determinations. The lender shall be conclusively presumed to have acted in good faith and no action may be brought or maintained against a lender which arises out of the provision by the lender of such stipulation or estimate, if the lender relied upon an appraisal of an independent appraiser approved by the Federal National Mortgage Association.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 12. Inoperative January 1, 1987, by Stats. 1982, Ch. 466, Sec. 12.5.)

1917.141. (a) In the case of a sale for cash within 90 days after the lender stipulates, under the provisions of Section 1917.140, a minimum amount which the lender considers to be the fair market value of the property, the fair market value shall be the gross sale price, unless the gross sales price is below the minimum amount stipulated by the lender and the lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(b) In the case of a sale for cash where the borrower has not requested the lender under the provisions of Section 1917.140 to stipulate to the minimum amount which the lender considers to be the fair market value of the property or where the stipulated minimum amount was provided by the lender more than 90 days prior to the date of sale, fair market value shall be the gross sale price, unless lender contests in writing the reasonableness of the gross sale price in relation to the fair market value within 10 working days of the lender's receipt of notice of the gross sale price from borrower, in which case fair market value shall be the greater of gross sale price or the amount determined under Section 1917.142.

(c) In the case of a sale which includes consideration to the seller other than cash, fair market value shall be as determined under Section 1917.142.

(d) In the case the shared appreciation loan is prepaid in full, or upon acceleration of the shared appreciation loan upon default, or upon maturity of the shared appreciation loan, fair market value shall be as determined under Section 1917.142.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 12. Inoperative January 1, 1987, by Stats. 1982, Ch. 466, Sec. 12.5.)

1917.142. When Section 1917.141 requires the application of this section, the fair market value shall be determined as the average of two appraisals of the property performed as described in this section. If possible, the appraisals shall be based on the sale prices of comparable properties in the market area sold within the preceding three-month period. The appraisals shall be made upon

request of the lender by two independent residential appraisers, one to be selected by the lender and one by the borrower. Each appraiser shall be approved by the Federal National Mortgage Association. The cost of the appraiser selected by the lender shall be borne by the lender, and the cost of the appraiser selected by the borrower shall be borne by the borrower, unless the average of the two appraisals equals or is less than the gross sale price of the property, in which case the lender shall also pay the fee of the borrower's appraiser up to two hundred dollars (\$200). If either of the appraisers determines that the gross sale price does not reasonably reflect the fair market value of the property, or, in the case of a sale for which appraisal is required by this section, then the fair market value of the property shall be determined as the average of the two appraisals. If the borrower fails to select a qualified appraiser within 15 days after the lender has notified the borrower in writing of the lender's request for an appraisal of the property, the reasons therefor, and the borrower's option to select an independent appraiser within 15 days after the lender's request is submitted to the borrower, the lender may designate the second appraiser, provided the lender's request informs the borrower of this time limitation, and that the lender will select an appraiser on behalf of the borrower in the event the borrower fails to designate an appraiser, with consequent cost to the borrower. If pursuant to this section the lender designates the second appraiser, the cost of both appraisals shall be borne equally by the borrower and lender. If in any case the property has been damaged (other than normal wear and tear) and the damage has not been fully repaired, the determination of fair market value shall be based on the condition of the property not including the damage.

Nothing in this section shall preclude the borrower and lender from establishing the fair market value of the property by mutual agreement in lieu of appraisals pursuant to this section.

(Repealed and added by Stats. 1982, Ch. 466, Sec. 12. Inoperative January 1, 1987, by Stats. 1982, Ch. 466, Sec. 12.5.)