

**CHAPTER 39. MOBILE HOME FINANCING**

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**Authority**

The provisions of this Chapter 39 issued under sections 103(a)(5) and 701(a)(22) of the Savings Association Code of 1967 (7 P. S. §§ 6020-3(a)(5) and 6020-101(a)(22)), unless otherwise noted.

**Source**

The provisions of this Chapter 39 adopted June 24, 1970, effective July 18, 1970, 1 Pa.B. 74, amended May 16, 1975, effective May 17, 1975, 5 Pa.B. 1297, unless otherwise noted.

**§ 39.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Inventory financing*—The financing of mobile home merchandise for licensed dealers. It is synonymous with wholesale or floor plan financing.

*Mobile home*—A movable dwelling constructed to be towed on its own chassis and under-carriage with minimum dimensions of 40 feet in length and 10 feet in width, and containing living facilities suitable for year-round occupancy by one family, including permanent provisions for eating, sleeping, cooking and sanitation.

*Mobile home chattel paper*—Written evidence of both a monetary obligation and a security interest of first priority in one or more mobile homes and in any equipment installed or to be installed therein.

*Manufacturer's invoice price*—A manufacturer's itemized charges, shown on the manufacturer's invoice, for a specifically identified mobile home, furnishings, equipment and accessories installed by the manufacturer, and freight.

**Source**

The provisions of this § 39.1 amended April 25, 1980, effective April 26, 1980, 10 Pa.B. 1661. Immediately preceding text appears at serial page (21349).

**§ 39.2. Motor Vehicle Sales Finance Company License.**

(a) An association shall first adopt a mobile home financing plan by proper resolution of its board of directors, which resolution shall authorize the appropriate officers of the association to obtain a Motor Vehicle Sales Finance Company

License from the Consumer Credit Bureau, Department of Banking, Education Building, Harrisburg, Pennsylvania 17120.

(b) An association shall then apply for and obtain a Motor Vehicle Sales Finance Company License from the Consumer Credit Bureau of the Department of Banking of the Commonwealth.

#### **Cross References**

This section cited in 10 Pa. Code § 39.3 (relating to limitations); 10 Pa. Code § 39.4 (relating to inventory financing); and 10 Pa. Code § 39.6 (relating to retail purchase money financing).

### **§ 39.3. Limitations.**

(a) Any association, upon complying with the appropriate provisions of this chapter, may make an investment in new or used mobile home chattel paper only if the amount of such investment and all other mobile home investments permitted under this chapter which are then outstanding does not exceed 20% of the assets of the association at the time of such investment.

(b) An association complying with § 39.2 (relating to Motor Vehicle Sales Finance Company License) shall not be entitled to make direct loans secured by mobile home chattel paper, except where such a loan is made to the former owner after repossession in order to salvage a delinquent account. Instead thereof, an association shall restrict the financing provided for under the provisions of this chapter to the purchase of third party paper either with or without recourse against the seller thereof and with or without the benefit of a repurchase agreement being furnished by the dealer.

#### **Source**

The provisions of this § 39.3 amended April 25, 1980, effective April 26, 1980, 10 Pa.B. 1661. Immediately preceding text appears at serial page (21350).

#### **Cross References**

This section cited in 10 Pa. Code § 39.8 (relating to purchase of participation interests in mobile home chattel paper).

### **§ 39.4. Inventory financing.**

Any association, after having complied with the provisions of § 39.2 (relating to Motor Vehicle Sales Finance Company License) and complying with the following requirements and conditions, may invest in mobile home chattel paper which finances the acquisition of inventory by a mobile home dealer:

- (1) The inventory is held for sale by the dealer in its ordinary course of business in the association's regular lending area.
- (2) The monetary obligation evidenced by such chattel paper shall be the obligation of the mobile home dealer and may not exceed the following amounts:
  - (i) 100% of the manufacturer's invoice price of each new mobile home.

(ii) 100% of the invoice price of the manufacturer of any new equipment to be installed by the dealer in a mobile home.

(iii) 75% of the fair market value of each used mobile home (including any installed equipment).

(3) The maximum term of each inventory loan shall not exceed 90 days.

(4) In the event a dealer is not able to sell the merchandise within the term of the original inventory loan, the loan may be renewed for successive 90 day periods, but no renewal shall extend beyond 12 months from the date of the original loan.

(5) Upon each renewal of any inventory financing, the dealer shall be required to pay all interest to date together with a 10% curtailment of the principal. An association may waive the requirement for a curtailment payment if the renewal occurs in the month of December, January or February.

(6) Disbursement of inventory loans shall be based on the original copy of the manufacturer's invoice, which invoice shall be retained in the association's files. Disbursement shall be made directly to the manufacturer or to the manufacturer and the dealer jointly.

(7) If the inventory financing for a particular dealer does not generate retail mobile home loans within a reasonable time, such financing shall be discontinued.

(8) No inventory or retail mobile home financing shall be transacted with any dealer until the board of directors of the association have formally approved such financing.

(9) An association may share the financing charges with any or all dealers through the operation of a dealer reserve whereby a percentage of the finance charge is set aside in a reserve account at the time each loan is made or purchased. The purpose of such reserve shall be to help to absorb losses and any amounts not so used shall be paid to the dealer periodically on a contractually agreed percentage basis.

#### Source

The provisions of this § 39.4 amended April 25, 1980, effective April 26, 1980, 10 Pa.B. 1661. Immediately preceding text appears at serial pages (21350) and (2015).

#### Cross References

This section cited in 10 Pa. Code § 39.6 (relating to retail purchase money financing).

### § 39.5. Investment practices in inventory financing.

(a) An association shall obtain an application for approval on a form provided by the association. Such application shall state the location of all of the sales and storage lots operated by the dealer as well as his primary business address. It shall name all manufacturers represented and include a general description of the units sold by the dealer (advertising literature is helpful). The

application shall state positively whether each manufacturer represented subscribed to the Uniform Invoicing Code adopted by the Mobile Home Manufacturers Association. It shall also state whether the dealer is willing to sign recourse or repurchase agreements in favor of the association. Preferably, the dealer shall do both. The application shall include the names of all persons having a proprietary interest in the dealership and state the amount of such interest in terms of percentage of the whole.

(b) [Reserved].

(c) In approving an application for inventory financing, an association shall obtain a profit and loss statement for the last fully completed semi-annual period, supplemented by a similar statement for the months since the close of that semi-annual period. The Department does not prescribe a particular form for this statement, although the form shown in the appendix of the "Study of the Mobile Home Industry" is considered appropriate in form and detail.

(d) A written credit report on the dealer submitted by a recognized credit reporting agency shall be obtained.

(e) In order to insure that a dealer maintains high standards, current financial statements shall be obtained at least every 6 months for review by the board of directors. Such semi-annual review shall be noted in the minutes of the director's meetings.

(f) After a dealer has been approved an association may operate through that dealer to the full extent permitted by regulation. The following safeguards are considered necessary and proper:

(1) An association shall maintain a continuous register of paper originated through a dealer in order to have readily available knowledge of its status with that dealer. Such information may be included as part of an overall register, but the following items are considered the minimum:

- (i) Loan number.
- (ii) Amount of loan.
- (iii) Date of loan and date of purchase.
- (iv) Borrower's name.
- (v) Dealer's name.
- (vi) Recourse provision included in assignment.
- (vii) Repurchase provision included in assignment.
- (viii) Interest rate.
- (ix) Term of loan.
- (x) Date loan repaid.

(2) Where an association makes any floor plan loans to a dealer, the association shall be responsible for determining that the merchandise so financed is not sold out-of-trust. The only effective way of doing this is to make unannounced physical inventories of that merchandise at intervals of not more than 30 days. Individuals making such inventories should be rotated from time to time. The records of completed inventories shall be retained in the dealer file

along with the application for approval, financial statement, and the like. Where the inventory reveals that any merchandise has been sold out-of-trust, that is, without repaying the association's wholesale loan, steps should be taken to see that it is repaid immediately and operations with the dealer discontinued. Where an association has engaged services of a servicing corporation, it is suggested that the personnel of the servicer make the physical inventory, rather than association personnel. The inventory record shall still be maintained by the association.

**Source**

The provisions of this § 39.5 amended April 25, 1980, effective April 26, 1980, 10 Pa.B. 1661. Immediately preceding text appears at serial pages (2016) and (33901).

**§ 39.6. Retail purchase money financing.**

Any association may, after having complied with the provisions of § 39.2 (relating to Motor Vehicle Sales Finance Company License), invest in any third-party retail mobile home chattel paper and may, without such license, invest in mobile home chattel paper by making direct loans to mobile home consumer-purchasers; provided that the association's investment is insured or guaranteed or that the association has a commitment for such insurance or guarantee under the provisions of the National Housing Act, 12 U.S.C.A. §§ 1701—1750 jj, or 38 U.S.C.A. §§ 1801—1827, if arrangements have been made for satisfactory local servicing of such chattel paper. If the proviso set forth in the immediately preceding sentence is not met, any association may still invest in mobile home chattel paper under this section, but only if the following conditions are met:

- (1) The monetary obligation evidenced by such chattel paper is incurred to finance the purchase of a mobile home.
- (2) The mobile home is to be maintained as a residence of the purchaser or a relative of the purchaser.
- (3) The mobile home is located at the time of such purchase, or is to be located within 90 days thereof, at a mobile home site or other semi-permanent home site within the association's regular lending area as set forth in § 39.4(1) (relating to inventory financing).
- (4) The monetary obligation evidenced by such chattel paper does not exceed either of the following amounts:
  - (i) 100% of the manufacturer's invoice price of any new mobile home plus 100% of the invoice price of the manufacturer of any new equipment installed or to be installed by the dealer.
  - (ii) 75% of the fair market value of any used mobile home including any installed equipment.
- (5) The promissory note secured by retail mobile home chattel paper is to be paid in substantially equal monthly installments over 20 years or less.

(6) The loan amount excluding time-price differential or interest however computed does not exceed 90% of total costs of the buyer including freight, itemized set-up charges, sales or other taxes, and filing or recording fees imposed by law. Insurance premiums may be financed for customary physical damage insurance on the mobile home for an initial policy term not to exceed five years. Insurance premiums may be financed for credit life and accident and health insurance.

(7) Appraisals of used mobile homes shall substantiate that the home is expected to retain its value as security for the loan over the loan term.

#### Authority

The provisions of this § 39.6 issued under sections 103(a)(viii) and 1415(c) of the Banking Code of 1965 (7 P. S. §§ 103(a)(viii) and 1415(c)).

#### Source

The provisions of this § 39.6 amended through August 1, 1980, effective August 2, 1980, 10 Pa.B. 3185. Immediately preceding text appears at serial page (49556).

#### Cross References

This section cited in 10 Pa. Code § 39.8 (relating to purchase of participation interests in mobile home chattel paper).

### **§ 39.7. Sound investment practices in retail purchase financing.**

(a) Any retail purchase financing investment shall conform to the requirements of Article 9 of the Uniform Commercial Code, as amended and supplemented (12A P. S. §§ 9-101—9-507) (Repealed).

(b) No such loan may be granted unless it constitutes a first lien on the chattels described therein.

(c) The promissory note on retail sales shall contain a provision that if the obligor sells the mobile home or removes therefrom any chattels described in the security agreement without prior written consent of the association, the entire balance remaining due on the note shall immediately become due and payable.

(d) Mobile home chattel paper purchased pursuant to these regulations may provide for such interest rates and other charges as are permitted by the Motor Vehicle Sales Finance Act (69 P. S. §§ 601—637), and associations acquiring such paper pursuant hereto shall be entitled to receive such interest and charges as are permitted other motor vehicle sales finance company licensees.

(e) No investment shall be made in any such retail paper unless the owner of the security has same properly titled with the Bureau of Motor Vehicle Division of the Department of Revenue of the Commonwealth and such title reflects that the association has a first lien thereon. The association must hold the encumbered title until such time as its lien is paid in full.

(f) With the exception of the limitations specified in this chapter, associations shall be bound by the sections of the Motor Vehicle Sales Finance Act (69 P. S.

§§ 601—637) pertaining to motor vehicle sales finance companies when making investments pursuant to this chapter, it being understood, however, that investments by an association in mobile home chattel paper shall be in conformity with sound practices in making such investments. Such chattel paper shall include provisions for protection of the association and shall provide specifically for protection with respect to insurance, personal and real property taxes, other governmental levies, maintenance and repairs, and for such other protection as may be lawful and appropriate. The association may pay taxes or other governmental levies, insurance premiums on policies giving dual protection to the association and the mortgagor, as their respective interests may appear, or similar charges for the protection of its security interest, and all such payments may, when lawful, be added to the monetary obligation of the obligor. The association shall, in a timely manner, take all steps necessary to protect its security interest under the applicable law.

(g) The board of directors of the association shall adopt standards to be observed in making all loans provided for in this chapter. Such standards shall call for proper loan applications and credit reports in connection with each retail loan purchased by an association; the application and credit report shall be accompanied by the original manufacturer's invoice which shall be retained in the files of the association.

(h) In the event of any conflict between the terms of this chapter, the Savings Association Code of 1967 (7 P. S. §§ 6020-1—6020-254), and the Motor Vehicle Sales Finance Act (69 P. S. §§ 601—637), or any of same, the association shall seek the advice of the Department which reserves the right to resolve such conflicts.

### **§ 39.8. Purchase of participation interests in mobile home chattel paper.**

(a) An association may purchase, within the percentage of assets limitation set forth under § 39.3 (relating to limitations), a participation interest in retail mobile home chattel paper which meets all the requirements of § 39.6 (relating to retail purchase money financing), except the lending area requirements, if all of the following applies:

(1) The seller of a participation interest is an institution whose accounts, deposits, or shares are insured by the Federal Savings and Loan Insurance Corporation, the Federal Deposit Insurance Corporation, the National Credit Union Administration, or a service corporation thereof, and the seller remains responsible for servicing of the chattel paper either directly or through a service corporation in the case of an institution seller.

(2) The seller of the chattel paper maintains at least a 25% interest in such chattel paper.

(3) Chattel paper is secured by a mobile home which is located at the time of such purchase, or is to be located within 90 days thereafter, at a mobile home park or other semipermanent site within 100 miles of any office of the

seller or the seller's service corporation which is servicing the chattel paper, provided that such office is maintained and staffed to properly service loans sold.

(b) In the event that any of the requirements set forth under subsection (a)(1) and (2) cease to be met, the association shall dispose of its participation interest within 90 days from the date it became aware that the requirement ceased to be met, unless it has, prior to expiration of the 90 days period, obtained the written approval of the Department to maintain the investment for a longer period, provided, however, that an association which sells a participation shall be under no obligation to repurchase such participation and shall not guarantee the payment of principal or interest thereon.

**Source**

The provisions of this § 39.8 amended April 25, 1980, effective April 26, 1980, 10 Pa.B. 1661. Immediately preceding text appears at serial page (21355).

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