

16.39 Purchase of mortgage loans.

1. The authority may purchase, and make advance commitments to purchase, mortgage loans from lending institutions at prices and upon terms and conditions as the authority determines subject to [this section](#). However, the total purchase price for all mortgage loans which the authority commits to purchase from a lending institution at any one time shall not exceed the total of the unpaid principal balances of the mortgage loans purchased. Lending institutions are authorized to sell mortgage loans to the authority in accordance with the provisions of [this section](#) and the rules of the authority.

2. The authority shall require as a condition of purchase of mortgage loans from lending institutions that the lending institutions, within a reasonable period after receipt of the purchase price as the authority prescribes by rule, shall enter into written commitments to loan and, within a reasonable period thereafter as the authority prescribes by rule, shall loan an amount equal to the entire purchase price of the mortgage loans, on new mortgage loans to low or moderate income families or certify that mortgage loans purchased are mortgage loans made to low or moderate income families. New mortgage loans to be made by lending institutions shall have terms and conditions as the authority prescribes by rule. The authority may make a commitment to purchase mortgage loans from lending institutions in advance of the time such loans are made by lending institutions. The authority shall require as a condition of such commitment that lending institutions certify in writing that all mortgage loans represented by the commitment will be made to low or moderate income families, and that other authority specifications will be complied with.

3. The authority shall require the submission to the authority by each lending institution from which the authority has purchased mortgages, of evidence satisfactory to the authority of the making of new mortgage loans to low or moderate income families as required by [this section](#) and in that connection may, through its members, employees, or agents, inspect the books and records of a lending institution.

4. Compliance by a lending institution with the terms of its agreement with the authority with respect to the making of new mortgage loans to low or moderate income families may be enforced by decree of any district court of this state. The authority may require as a condition of purchase of mortgage loans from any national banking association or federally chartered savings and loan association, the consent of the association to the jurisdiction of courts of this state over any such proceeding. The authority may also require as a condition of the authority's purchase of mortgage loans from a lending institution, agreement by the lending institution to the payment of penalties to the authority for violation by the lending institution of its agreement with the authority, and the penalties shall be recoverable at the suit of the authority.

5. The authority may require as a condition of purchase of a mortgage loan from a lending institution that the lending institution represent and warrant to the authority that:

a. The unpaid principal balance of the mortgage loan and the interest rate on it have been accurately stated to the authority.

b. The amount of the unpaid principal balance is justly due and owing.

c. The lending institution has no notice of the existence of any counterclaim, offset, or defense asserted by the mortgagor or the mortgagor's successor in interest.

d. The mortgage loan is evidenced by a bond or promissory note and a mortgage which has been properly recorded with the appropriate public official.

e. The mortgage constitutes a valid first lien on the real property described to the authority subject only to real property taxes not yet due, installments of assessments not yet due, and easements and restrictions of record which do not adversely affect, to a material degree, the use or value of the real property or improvements on it.

f. The mortgagor is not now in default in the payment of any installment of principal or interest, escrow funds, or real property taxes, or otherwise in the performance of obligations under the mortgage documents and has not to the knowledge of the lending institution been in default in the performance of any obligation under the mortgage for a period of longer than sixty days during the life of the mortgage.

g. The improvements to the mortgaged real property are covered by a valid and subsisting

policy of insurance issued by a company authorized to issue such policies in this state and providing fire and extended coverage in amounts as the authority prescribes by rule.

h. The mortgage loan meets the prevailing investment quality standards for mortgage loans in this state.

6. A lending institution is liable to the authority for damages suffered by the authority by reason of the untruth of a representation or the breach of a warranty and, in the event that a representation proves to be untrue when made or in the event of a breach of warranty, the lending institution shall, at the option of the authority, repurchase the mortgage loan for the original purchase price adjusted for amounts subsequently paid on it, as the authority determines.

7. The authority shall require the recording of an assignment of a mortgage loan purchased by the authority from a lending institution and shall not be required to notify the mortgagor of the authority's purchase of the mortgage loan. The authority shall not be required to inspect or take possession of the mortgage documents if the mortgage lender from which the mortgage loan is purchased by the authority enters into a contract to service the mortgage loan and account to the authority for it.

8. If a provision of [this section](#) is inconsistent with another provision of law of this state governing lending institutions, the provision of [this section](#) controls for the purposes of [this section](#).

[2014 Acts, ch 1080, §39, 78](#)

Section takes effect January 1, 2015; 2014 Acts, ch 1080, §78
NEW section