

LAW 2/1981, OF 25th MARCH, REGULATING MORTGAGE MARKET

(Updated with Law 41/2007)

Preliminary regulation

Article 1

The financial institutions referred to in this Act can grant mortgage loans and issue the securities necessary to fund them in accordance with the requirements and objectives established in it, without prejudice to the fact that these institutions or others can issue and transfer obligations, secured or not, in accordance to the current legislation.

This Act, and its regulations, shall be applied to all securities regulated therein and issued in Spanish territory.

Section I. FINANCIAL INSTITUTIONS AND VALUATION COMPANIES

Article 2

The credit institutions which are detailed below can grant loans and credits and issue the securities regulated in this Act, under the conditions that are determined in the regulations:

- a) Banks and, when permitted under their articles of association, official credit institutions,
- b) The savings banks and the Spanish Confederation of Savings Banks (*Confederación Española de Cajas de Ahorros*),
- c) Credit cooperatives,
- d) Financial credit establishments.

Article 3

1. The valuation companies and the valuation services of the lenders shall be subject to the prior approval, independence and secrecy requirements that are established in the regulations.
2. The valuation companies which provide their services to lenders of their same group, and the valuation companies which derive at least 25 percent of their total revenue, during the time period established in the regulations, from one lender or from all of the

lenders in the same group, must, provided that any of these lenders has issued or has in circulation mortgage securities, have suitable mechanisms in place in order to favour the independence of the valuation activity and to avoid conflicts of interest, particularly with the lender's managers or units which, without specific competence in the analysis or management of risks, are related to granting or marketing mortgage credits or loans.

These mechanisms shall at least include an internal code of conduct which establishes the incompatibilities of their managers and administrators and the other issues which are most adequate according to the institution's size, business type and other characteristics. The Bank of Spain shall check said mechanisms and can establish the minimum requirements that must be generally fulfilled and require the entities, in a well-reasoned manner, to adopt the additional measures which are deemed necessary in order to preserve their professional independence.

The obligation to have those mechanisms will also affect the lenders' own valuation services and those valuation companies controlled or, where there is a significant influence over its management, by shareholders with specific interests in the development or marketing of real estate, or in activities which, in Bank of Spain's view, are analogous in nature.

3. The credit institutions which have issued or have in circulation mortgage securities and have valuation services or entrust valuations to a valuation company in its own group, must set up a technical committee to verify the compliance with the independence requirements contained in the mechanisms mentioned in the previous paragraph. Said committee will prepare an annual report on the degree of compliance with the said requirements which must be sent to the institution's board of directors or equivalent body. The said annual report must also be sent to the Bank of Spain.

Article 3 bis

1. The valuation companies and the lenders which have their own valuation services must comply with the regulations applicable to estate valuations for the mortgage market or other financial purposes to accurately draft the certificates and reports that they issue and to perform at any times with professional diligence. Breach of any of the obligations will lead to the application of the sanctioning regime set out in this article.

2. The infringements are classified as very serious, serious and minor.

a) Very serious infringements are considered as:

1.^a The breach, for a period of over six months, of the minimum share capital requirement in order to perform the valuation activity set out in the mortgage market legislation, and, during the same period, the absence of the civil liability insurance, or for a lower cover limit than that established, as set out in the regulation.

2.^a the performance of activities other than the legally established corporate purpose, unless it is merely occasional or a one-off.

3.^a Having deficiencies in the administrative organisation, be it technical or staff ones, including deficiencies in the minimum requirements for qualified administrators or professionals, or in the internal control procedures, when due to such deficiencies the institution's capacity to know the situation and conditions of the real estate market in which they operate, the uniform compliance with the applicable valuation regulations, their professional independence from shareholders' or clients, or the control of the secrecy obligations or incompatibilities affecting the professionals in their service is not ensured .

4.^a the breach by the signatories of the valuation reports of the professional qualification requirements set out in the regulations.

5.^a the issue of valuation certificates or reports which contain in a clear manner:

a) The lack of truth in the valuation and, in particular, the lack of consistency with the details and tests obtained in the valuation activity.

b) The lack of caution in the valuation when the issue of said document is to value assets eligible as guarantee for credits that are or will be part of the cover for mortgage securities, or for the cover of technical provisions of the insurance companies or for the real estate assets of the pension funds, or for any other purpose in which the principle of valuation caution is applicable.

In any event, the clear lack of truth or, if applicable, the clear lack of valuation caution will be assumed when, as a result of the valuations contained in any of said documents leads to a false appearance that a credit institution, an insurance company, a pension fund or any other financial institution complies with the financial guarantees required therein.

6.^a Resisting, refusing or obstructing inspection by the Bank of Spain, the National Stock Market Commission or the Directorate General for Insurance and Pension Funds within their respective competences, provided that there has been an explicit, written request.

7.^a the breach of the independence rules contained in the internal regulations envisaged in section 2 of article 3 of this Act.

8.^a Endangering the safe and cautious management of a valuation company through the owner of a significant interest exerting influence, in accordance with that set out in the regulations.

9.^a the serious infringements, when during the five years prior to their commission there was a firm sanction imposed for the same type of infringement.

b) Serious infringement is considered as:

1.^a The breach of the minimum capital requirement to perform the valuation activity set out in the mortgage market legislation, when it is not a very serious infringement, as well as the deficiencies that are appreciated in the civil liability insurance policy, unless they are merely occasional or isolated or involve exception exclusions for certain damages in accordance with normal insurance cover practice.

2.^a Presenting deficiencies in the administrative organisation be it technical or staff ones, including the minimum requirements for qualified administrators or professionals, in the internal control procedures, once the period granted by the competent authorities for their correction has expired and provided that it is not a very serious infringement.

3.^a the issue of valuation certificates which are not in accordance with the valuation report, unless it is merely occasional or isolated.

4.^a the issue of valuation certificates or reports which contain:

a) The lack of truth and, in particular, the lack of agreement with the details and tests obtained from the valuation activity, as well as the continuous breach of the valuation principles, procedures, checks and instructions set out in the applicable regulations.

b) The lack of caution in the valuation when the issue of said document is to value assets eligible as guarantee for credits that are or will be part of the cover for mortgage securities, or for the cover of technical provisions of the insurance companies or for the real estate assets of the pension funds, or for any other purpose in which the principle of valuation caution is applicable, unless said failure is occasional or isolated.

In both cases provided that the conduct does not constitute a very serious infringement.

5.^a any other breach of the valuation rules which could cause financial damage to third parties or to the person to whom the service is provided.

6.^a The failure to send the details which must be provided to the Bank of Spain, the National Stock Market Commission or the Directorate General for Insurance and Pension Funds, or their lack of truth when this hinders the appreciation of the activity performed by the institution or its asset or organisational situation. For these purposes, it will be understood that there is a failure to send when it is not done within the period granted for such purpose by the competent body, when it the latter sends a written request for compliance with the obligation or the request is repeated.

7.^a the breaches of the duties of professional secrecy, independence and

incompatibility in the performance of their functions which do not lead to very serious infringement, unless they are merely occasional or isolated.

8.^a the minor infringements when during two years prior to their commission there was a firm sanction imposed on the valuation services and companies for the same type of infringement.

c) Minor infringement shall be considered the other acts and omissions which breach the applicable regulations.

3. The valuation companies and the credit institutions which provide valuation services, as well as their administrators and managers, may be subject to the sanctions set out in Chapter III of Heading I of Law 26/1988, of 29th July, on Credit Institutions Discipline and Intervention, with the following modifications:

a) The sanction to revoke the authorisation shall be held replaced by the definitive loss of the authorisation to provide valuation services.

b) For very serious infringements the sanction of suspension of the authorisation to provide valuation services can also be imposed for between one and five years, and for serious infringements suspension of said authorisation for up to one year.

c) The disqualification sanctions set out in article 12 shall be understood as referring to both credit institutions and to valuation companies.

4. The sanctioning procedure applicable shall be regulated in Royal Decree 2119/1993, of 3rd December, on the sanctioning procedure applicable to the persons acting on the financial markets.

The sanctioning competence shall be as set out in article 18 of the Law 26/1988, of 29th July, on Credit Institutions Discipline and Intervention with the following modifications:

a) The Bank of Spain shall obligatorily instigate sanctioning proceedings when there is a reasoned communications with grounds from another administrative body or authority which states that the irregular provision of valuation services has had repercussions within their scope of administrative action.

b) In the case set out in the previous letter, before a sanction is imposed the competent administrative body or authority shall have to report.

5. In the other issues relating to the sanction regime, the set out in Law 26/1988, of 29th July, on Discipline and Intervention of the Credit Institutions shall be applied, with the adaptations established in the regulations will be applicable.

6. The Tenth Additional Regulation of the Law 26/1988, of 29th July, on Credit Institutions Discipline and Intervention, in accordance with its subsequent regulations, shall be applicable to those individuals or legal entities that, without being authorised to develop valuation activities, provides these services to the public.

Article 3 bis I)

The credit institutions, even those with their own valuation services, must accept any valuation of a property provided by the client, provided that it is certified by a valuer approved in accordance with this Law and it has not legally expired, and without prejudice to that fact, the lender can carry out the checks that it deems relevant; under no circumstances can the cost thereof be passed on to the client which provides the certificate.

Article 3 ter

1. Every individual or legal entity that wishes to directly or indirectly acquire a significant shareholding in a valuation company must previously inform the Bank of Spain. Furthermore, the Bank of Spain must be informed, as soon as it becomes aware, of the acquisitions or transfers of interests in their capital which exceed the level indicated in section 2 of this article.

2. For the purposes of this Law significant shareholdings in a valuation company shall be understood as that which directly or indirectly reaches at least 15 percent of the capital or of the voting rights of the company.

They are also considered significant shareholdings those that, without reaching the indicated percentage, allow for the performance of a notable influence over the company

3. The Bank of Spain shall have a maximum period of three months counting from the date on which it was informed to, if applicable, deny the authority for the acquisition. The denial can be based on the fact that the acquirer is not considered suitable. Amongst other factors, the suitability will be appreciated according to:

a) The commercial and professional honourableness of the shareholders. This honourableness shall be presumed when the shareholders are Public Administrations or entities depending on them.

b) The asset resources that the said shareholders use to cover their commitments.

c) The lack of transparency in the structure of the group that the company may possibly belong to, or the existence of serious difficulties in inspecting or obtaining the necessary information about the development of its activities.

If the Bank does not pronounce in the said period, it shall be understood that the plan is accepted.

4. When one of the acquisitions referred to in section 1 of this article is performed without having previously informed the Bank of Spain or, having informed it, the three month period has not passed as set out in the previous section, or if the Bank expressly opposes, the following effects will occur:

a) In all cases and automatically, the political rights corresponding to the irregularly acquired interest can not be performed. If however they are exercised, the corresponding votes will be null and the agreements can be challenged through the courts, as set out in section 2 of chapter V of legislative Royal Decree 1564/1989, of 22nd December, which passes the consolidated text of the Limited Liability Companies Law, for which the Bank of Spain has authorisation.

b) Furthermore, the sanction set out in article 3 bis of this Act can be imposed

SECTION II.-FINANCIAL ASSETS TRANSACTIONS.

Article 4

The objective of the loan operations referred to in this Law shall be to finance, with ordinary or maximum sum mortgage secured on real estate, the construction, renovation and acquisition of dwellings, urban development and public infrastructure work, construction of agricultural, tourism, industrial and commercial buildings and any other building work or activity as well as any other loans granted by the entities mentioned in article 2 and guaranteed by real estate mortgage under the conditions established in this Law, whatever their purpose.

The disposals of the loans, the mortgage collateral of which correspond to real estate under construction or renovation, can be fixed to a calendar agreed with the lender according to the execution of the building work or the investment and the evolution of the sales or allocations of the housing.

Article 5

The loans and credits referred to in this Law shall be in every case secured by real estate mortgage constituted with first range over the full ownership of the entire property. If over the same property there are other mortgages or it is affected by disposal prohibitions, resolutive condition or any other limitation over the ownership, one and other shall be cancelled or they must be placed over the mortgage which is constituted before the issuance of securities.

The loan or credit secured by this mortgage shall not exceed 60 per 100 of the valuation of the mortgaged asset. When the construction, renovation or acquisition of homes is financed, the loan or credit can amount to 80 per 100 of the valuation, notwithstanding the exceptions envisaged in this Law.

If, for reasons related to the market or for any other circumstances, the value of the mortgaged asset decreases below the initial valuation more than 20 per 100, the financial institution can demand to extend the mortgage to other assets, unless the debtor opt to repay the loan in its totality or to pay the part of the loan exceeding the amount resulting from applying to the current valuation the percentage which determined originally the amount of the loan.

The loans and credits referred to in this article can include those others which are secured by real estate situated within the European Union through equivalent guarantees to those defined in this Law.

The following will be determined in the regulations:

1. The assets which can not be accepted as guarantee because they do not represent a sufficiently stable and lasting security. Under no circumstances can officially sponsored housing under public protection be excluded as mortgageable assets.
2. The cases in which the 60 per 100 is exceeded between the guaranteed loan or credit and the value of the mortgaged asset, with the maximum limit of 80 per 100, as well as in those where the Administration, depending on the characteristics of the mortgaged assets, may establish percentages lower than 60 per 100. The maximum limit of 80 per 100 will under all circumstances be applied to the loans and credits guaranteed with a mortgage over officially protected housing.
3. The issue conditions for the securities issued with mortgage guarantee over real estate under construction.
4. The conditions in which the 80 percent ratio between the guaranteed loan or credit and the value of the mortgaged dwelling can be exceeded, without exceeding 95 percent of that value, using additional guarantees provided by insurance companies or credit institutions.
5. The way in which the equivalence of the real guarantees over real estate in other Member States of the European Union will be appreciated as well as the conditions for the issue of securities which are issued taking them as guarantee.

Article 6

The financial institutions referred to in article 2º.1, can grant guarantees to cover the repayment of other borrower's loans when the borrower subscribes, as a counter-guarantee, in favour of the guarantor, a real state mortgage that meets all the requirements established in this Law. Those funds obtained by the guaranteed borrower thereby shall be used for the purposes stated in article 4.

The amount of those guarantees shall not be considered by the guarantor in the calculation of the maximum limit to the issuance of securities referred to in article 16 and 17 and subsequent ones, even if in any case they shall be considered as risk capital.

Article 7

1. In order to mobilize a mortgage credit by issuing the securities regulated in this Law, the mortgaged assets must have been valued by the valuation services of the Institutions referred to in article 2, or, by other valuation services fulfilling the requirements to be established.

2. The Minister for Finance, after the Official Credit Institute has provided a report, shall regulate:

a) The general rules on valuation of the assets subject to be mortgaged. Both the valuation services of the credit institutions and the specialized institutions that may be constituted for this purpose shall be subject to these regulations.

b) The way in which the valuation shall be stated.

c) The rules governing the inspection of the aforementioned rules.

Article 8

The mortgaged assets shall be insured against damage for the valuation value, under the conditions stated by the rules.

Article 9

In concordance with the regulations, it shall be established the minimum percentage that shall represent the own resources of the financial institutions referred to in article 2, regarding the assets at risk under loans or guarantees secured by mortgage collateral.

Article 10

The mortgages registered in favour of the institutions referred to in article 2 can only be rescinded or contested under that set out in article 71 of the Bankruptcy Law 22/2003, of 9th July, by the bankruptcy administration which will have to prove the existence of fraud in the constitution of the burden. Third party rights in good faith will however survive.

SECCION III.-LIABILITY TRANSACTIONS

Article 11

The institutions referred to in article 2 which have mortgage loans or credits with the requirements established in the previous section can issue cédulas hipotecarias and mortgage bonds, in series or individually and **with the financial characteristics desired** in accordance with what it is stated in the following articles. **In particular, the cédulas hipotecarias and mortgage bonds can include early repayment clauses as decided by the issuer according to that specified in the terms of issue.** Always provided that the applicable regulation is **Law 24/1988, of 28th July, on the Stock Market, these issues will be adapted to the regime envisaged thereof.**

Article 12

The cédulas hipotecarias can be issued by all of the institutions referred to in article 2.

The capital and interests of the cédulas hipotecarias shall be particularly guaranteed, without the need for registry entry, by mortgage, particularly those which at any time are entered in favour of the issuing institution and are **not serving as a collateral of mortgage bonds, without prejudice its universal asset liability and, if any, by the substitution assets included in section two of article 17 and by economic flows generated by the derivative financial instruments linked to each issue, under the conditions determined in the regulations.**

The institution issuing the cédulas hipotecarias will keep a special accounting register of the loans and credits that serve as collateral of the issues of cédulas hipotecarias and, if any, of the substitute assets fixed that cover them, as well as the derivative financial instruments linked to each issue. This special accounting register must also identify, for the purposes of calculating the limit established in article 16, from the total registered loans and credits, those that fulfil the conditions required in the second section of this Law. The annual accounts of the issuing institution shall contain, as determined in the regulations, the essential details of said register.

The issues of cédulas hipotecarias will not be affected by chapter X of Legislative Royal Decree, of 22nd December, which passes the consolidated text of the Limited Liability Companies' Law. Nor shall they be entered in the Trade Register.

Article 13

The mortgage bonds can be issued by all of the institutions referred to in article 2.

The capital and interests of the bonds will be specially guaranteed, **without the need for**

entry in the register, by mortgage over the mortgage loans and credits performed in public deed, without prejudice to the universal asset liability of the issuing institution, and, if any, by the substitution assets covered in section two of article 17 performed in public deed and by the economic flows generated by the derivative financial instruments linked to each issue, under the conditions determined in the regulations.

All of the loans and credits affected by an issue of mortgage bonds must meet the requirements of section II of this Law.

The institution issuing the mortgage bonds will keep a special accounting register of the mortgage loans and credits affected by the issue and, if any, of the substitution assets included in the cover, as well as of the derivative financial instruments linked to the issue.

A syndicate of bondholders can be constituted when the bonds are issued in series, in which case the issuing institution shall designate a commissioner to attend the execution of the public deed mentioned in the second paragraph of this article on behalf of the future bondholders. Said person, whose appointment must be ratified by the bondholders' plenary, will be the syndicate's chairperson, and apart from the powers conferred in the said deed or attributed by the aforementioned plenary, will legally represent the syndicate, check that the institution maintains the percentage referred to in article 17.1 and perform the corresponding actions.

The chairperson, and the syndicate in everything relating to its composition, powers and competences, shall be governed by the rules in chapter X of Legislative Royal Decree, of 22nd December, which passes the consolidated text of the Limited Liability Companies' Law, insofar as they do not contradict the content of this Law.

Article 14

The cédulas hipotecarias and mortgage bonds incorporate their holder's credit right against the issuing institution, guaranteed as set out in articles 12 and 13, and shall entail execution in order to claim payment from the issuer, after they expire. The holders of the said securities shall be creditors with special preference, as indicated in number 3 of article 1923 of the Civil Code, over any other creditors as regards all of the mortgage loans and credits entered in favour of the issuer in case of cédulas hipotecarias, except for those that cover the mortgage bonds, and in relation to the mortgage loans and credits serving as a collateral in case of bonds and, in both cases, in relation to the substitution assets and the economic flows generated by the derivative instruments linked to the issues, if any. The bondholders of an issue shall have prevalence over the holders of cédulas hipotecarias over a loan or credit serving as collateral by said issue. All of the holders of cédulas hipotecarias, whatever their date of issue, shall have the same prevalence over the loans and credits that guarantee them, and, if any, over the substitution assets and over the economic flows generated by the derivative instruments linked to the issues.

In the event of the issuer's bankruptcy, the holders of *cédulas hipotecarias* and the mortgage bond holders shall enjoy the special privilege established in number 1 of section 1 of article 90 of the Bankruptcy Law 22/2003, of 9th July.

Notwithstanding the above, in accordance with number 7 of section 2 of article 84 of the Bankruptcy Law 22/2003, of 9th July, during the bankruptcy, and as credits against the mass, there will be satisfied all the payments which correspond to the repayment of the capital and interest of the issued *cédulas hipotecarias* and mortgage bonds, which are pending on the date of the bankruptcy application up to the amounts received by the debtor from the mortgage loans and credits and, if any, from the substitution assets which backup the *cédulas hipotecarias* and mortgage bonds and the economic flows generated by the financial instruments linked to the issues.

In the event that, temporarily, the revenue received by the debtor is insufficient in order to meet the payments set out in the previous paragraph, the bankruptcy administration must pay them by liquidating the substitution assets serving as a collateral of the issue, and if these are insufficient, funding/financial operations must be performed in order to comply with the payment obligations to the holders of *cédulas hipotecarias* or bondholders, subrogating the financial backer in their position.

In the event that the procedure is to be followed according to that indicated in number 3 of article 155 of the Bankruptcy Law 22/2003, of 9th June, the payment to all of the owners of *cédulas hipotecarias* issued by the issuer shall be done proportionally, regardless of the issue date of their securities. If the same credit is affected by payment of *cédulas hipotecarias* and to an issue of bonds, the bond owners will be paid first.

Article 15

The institutions referred to in article 2 can offer third parties to participate in all, or a part of, one or several mortgage credits in their portfolio, through the issue of securities named *participaciones hipotecarias* (mortgage passthroughs).

Those mortgage credits serving as collateral for an issuance of mortgage bonds can not be subject to such *participaciones*.

Said participation can be done at the beginning or during the life of the granted loan. Nevertheless, the term of the participation can not be longer than the residual term of the mortgage loan and the interest can not be higher than the one established for the loan.

The mortgage participation's holder shall take enforcement procedures against the issuer, always provided that the non performance of its duties is not a consequence of the debtor's default, whose loan is subject to the *participación*. In the event of an execution process against said debtor, the holder of the *participaciones* will have equality of rights as the mortgage creditor, and shall received on a pro rata basis the proceeds of its

participación in the transaction and notwithstanding that the issuer receives the possible difference between the interest rate agreed in the loan and that assigned in the participation, in the event that this was lower. The holder of the *participación* can oblige the mortgage creditor to urge the execution.

If the mortgage creditor fails to urge the judicial execution in the 60 days after he is requested to do so, the participation's holder can subrogate in said execution, for the amount of its respective participation. The part of credits assigned as *participaciones hipotecarias* shall not be counted as capital at risk.

In the case of **bankruptcy** of the institution issuing the *participación*, the business of issuance of the participation can only be contested under the terms of article 10 and therefore the holder of that participation will enjoy an absolute right of separation/segregation.

Article 16

The institutions shall not issue Cédulas Hipotecarias for an amount greater than **80 per 100** of the non-repaid mortgage loans and mortgage credits in their portfolios **fulfilling the requirements stated in Section II**, after the amount of those loans serving as a collateral of mortgage bonds has been deducted.

The cédulas hipotecarias can be backed up to a limit of 5 percent of the issued capital by the substitution assets listed in section two of article 17.

Article 17

One. The updated value of the mortgage bonds must be at least 2 percent less than the updated value of the affected mortgage loans and credits. The calculation method for the updated value will be determined in the regulations.

Two. The mortgage bonds can be backed up to a limit of 10 percent of the capital of each issue by the following substitution assets:

- a) Fixed-income securities represented by notes on account issued by the State, other Member States of the European Union or the Spanish Official Credit Institute,**
- b) Cédulas hipotecarias listed on an official secondary market, or on an administered market, provided that said cédulas hipotecarias are not guaranteed by any loan or credit with mortgage collateral granted by the issuer of the bonds or by other institutions in its group,**
- c) Mortgage bonds listed in an official secondary market, or on an administered market, with a credit classification equivalent to that of the Kingdom of Spain,**

provided that said securities are not guaranteed by any loan or credit with mortgage guarantee granted by the issuer of the bonds or by other institutions in its group

d) securities issued by Mortgage Securitisation Funds or Asset Securitisation Funds listed on an official secondary market or on an administered market, with a credit classification equivalent to that of the Kingdom of Spain, provided that said securities are not guaranteed by any loan or credit granted by the issuer of the mortgage bonds or by other institutions in its group,

e) other fixed-interest securities listed on an official secondary market or on an administered market, with a credit classification equivalent to that of the Kingdom of Spain, provided that said securities were not issued by the issuer of the mortgage bonds or by other institutions in its group,

f) Other low risk and high liquidity assets determined in the regulations

Article 18

One. The issuer is bound to maintain at all times the percentages referred to in the previous two articles.

Two. If due to the repayment of the loans and credits, the amount of the issued cédulas hipotecarias and bonds exceeds, respectively, the established limits, the institutions can opt to acquire their own mortgage bonds, cédulas hipotecarias or participaciones hipotecarias (mortgage passthroughs) until the proportion is re-established or, in the event that there is the cancellation of mortgages affected by an issue of bonds, to substitute them for others that meet the required conditions, **through the corresponding public deed.**

SECTION IV.-TAX, FINANCIAL AND ADMINISTRATIVE CONTROL REGIME

Article 19

1. The acquisitions of the mortgage securities referred to in article 11 herein that have been done during the administrative period required to achieve the minimum conditions of qualified price, shall be considered as investments to the effects of the deductions established in section 4, f) 2^a, of art. 29 of Law 44/1978, 8th September. Likewise, their subscription during the term indicated will also be considered as investment to the effects established in article 26.1, paragraph 1, of the Law 61/1978, of 27 December.

For the acquisitions or subscriptions of the aforementioned securities, when appropriate, made after such term, the aforementioned articles 29 and 26 shall be applicable in their own terms.

2. The issuance, transfer and cancellation of mortgage securities regulated by this Law,

and their redemption, shall be exempted as established by the Law on the tax on capital transfers and Stamp Duties (*Ley del Impuesto sobre Transmisiones Patrimoniales y Actos Jurídicos Documentados*)

Article 20

The mortgage securities regulated by this Law shall be admitted as investments of the reserve requirements for the companies, being equivalent to the securities listed on the Stock Market for these purposes.

Particularly, they shall be accepted listed for the following purposes: a) Investment of the technical reserve of the Insurance and Capitalization and Savings Companies. b) Investment of the company's resources and equity investment funds. c) Investment in funds of Social Security Entities.

Article 21

Notwithstanding the attributes of the Bank of Spain and the powers of other Government bodies in their respective matters, the Minister for Finance and Treasury shall be in charge of the control and inspection of the application of the regulations contained in this Law, specially of those referred to the incorporation and the functioning of mortgage credit companies and the conditions of the credit guarantees, the compliance with the valuation rules, the requirements for the issuance of cédulas, bonds and participaciones hipotecarias and the established proportions for the assets and liabilities entries, and the aspects relating the functioning of the secondary market.

(...)

(Rest of the article revoked by Law 26/1988)

SECTION V. SECONDARY MARKET

Article 22

Mortgage securities shall be transferred by any of the means recognized by law, and without the necessity for the intervention of neither a notary public nor the notification to the debtor. Should the securities be nominative, they shall be transferred by written statement in the security. If they are bearer securities, it shall be assumed that the securities' holder is the last to perceive the interests.

Article 23

Revoked by Law 26/1988

Article 24

1. The issuer has the capacity to negotiate, buy, sell and pledge its own mortgage securities, according to the limits to be established by the rules.
2. The commissions applied to these transactions and services shall be those established by the law on bank fees.
3. Mortgage Loans can not be granted to those persons holding capital of the Institutions or to their Directors, according to the terms to be established by the rules.

Article 25. Tacit abolition

1. All the Institutions that issue mortgage securities under the protection of this Law can take part in funds for the regulation of the mortgage securities market, through the subscription of *participaciones*, for an amount equal to the percentage of each issuance.

2. The purpose of these funds shall be to regulate the secondary market of mortgage securities by means of purchasing and selling them, in order to guarantee a sufficient liquidity degree.

3. The regulation shall establish the function to be performed by these funds, the investment in which their resources can be used and the criteria for the performance of its function as market regulator, considering the market interest rate and the guidelines of the economic policy.

4. The Spanish Mortgage Bank shall promote the establishment of a management company with a public fund for the regulation, the aim of which shall be to promote the finance of the construction and acquisition of housing. In the regulations shall be established the way in which this fund shall be governed, according to the guidelines of the monetary policy.

5 (Revoked by Law 43/1995)

6. And for the financing of its needs, the fund shall rely on the percentage of participation on the issues taking part in the market and with the possibility of accessing to the refinancing in the Bank of Spain, under the conditions to be developed by means of regulation.

Comentario [L1]: Quitar para la refundición

Article 26

The credits or loans guaranteed with first chattel mortgage or first non-transferable collateral can be moved under the terms and with the requirements determined in the regulations.

Article 27

The same specialities that may be established in the regulations shall be applied to the secondary chattels market securities issued in accordance with that set out in articles 11 to 18 of this Law, although the references to the Land Register shall be understood as referring to the Registry of Personal Property.

Additional regulations

1.^a The Civil Code and the mortgage legislation shall be applicable to any issue not regulated by this Law, regarding the requirements for the creation, modification and extinction of mortgages.

2.^a Within six months the Government, at the suggestion of the Ministry of Justice and of the Treasury, in their respective spheres, shall dictate the complementary rules for the proper functioning of the mortgage market and, particularly, those rules concerning the execution of cédulas and bonds, the registry cancellation according to the principles established by this law, and the review and establishment of the limits to the Notary, Registrars and Intermediaries fees applied to the transactions regulated by this Law.

3.^a The Government shall regulate by Decree the concept of Credit Insurance with the purpose of guarantee and provide certainty to the transactions on mortgage loans.