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Insuring of Industrial Mortgages

Sec. 32-13-1. Application and fees

Information required for the examination of an industrial project shall be submitted in the form of an application for mortgage insurance by an approved mortgagee and by the sponsors of such project through the executive secretary of the Connecticut Industrial Building Commission, on the commission's form executed in triplicate. No application will be considered unless the exhibits called for by such form are furnished and such application is accompanied by an application fee of *** such *** amount as the commission may from time to time prescribe.

(Effective November 26, 1968)

(See 1969 Supp. § 32-15.)

Sec. 32-13-2. Commitment or unacceptance

(a) *No commitment shall be valid unless authorized by the commission, and a commitment shall be effective for a stated period. A commitment may be renewed in such manner as the commission may from time to time specify.*

(b) *No such commitment shall become effective until the applicant has paid to the commission a commitment fee of one dollar and fifty cents for each one thousand dollars of the face amount of the mortgage to be insured or of such other amount as the commission may from time to time prescribe.*

(c) Upon approval of an application, a commitment shall be issued setting forth the terms and conditions upon which the mortgage payments shall be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents, drawings, plans, specifications, appraisals, and other instruments evidencing full compliance, satisfactory to the commission.

(d) If, upon examination of the application and supporting information, the commission rejects such application, it shall inform the mortgagor and mortgagee submitting such application.

(Effective August 20, 1963)

Sec. 32-13-3. Covenant for fire and other hazard insurance

The mortgage shall contain a covenant acceptable to the commission binding the mortgagor to keep the property insured by a standard policy or policies against fire and such other hazards as the commission may stipulate, in an amount which will comply with the co-insurance clause applicable to the location and character of the property. The initial coverage shall be in an amount estimated by the commission at the time of completion of the entire project of units thereof. The policies evidencing such insurance shall *be with companies and in amounts acceptable to the commission and shall* have attached thereto a standard mortgagee clause making loss payable to the mortgagee and the commission as interests may appear.

(Effective November 26, 1968)

Sec. 32-13-4. Other covenants

The mortgage shall contain covenants acceptable to the commission binding the mortgagor with respect to repairs and alterations to the property, or to the use of the property for purposes intended, and to payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens and other covenants as the commission may require.

Sec. 32-13-5. Accumulation of accruals

(a) The mortgage shall provide for payment by the mortgagor to the mortgagee on each interest payment date of an amount sufficient to accumulate in the hands of the mortgagee, one payment period prior to its due date, the next actual mortgage insurance premium payable by the mortgagee to the commission. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(b) The mortgage shall provide for such equal periodic payments by the mortgagor to the mortgagee as will amortize the estimated amount of all taxes, water rates, *ground rents* and special assessments, if any, and fire and other hazard insurance premiums, within a period ending one period prior to the dates on which the same become delinquent. The mortgage shall further provide that such payments shall be held by the mortgagee, for the purpose of paying such taxes, water rates, *ground rents* and assessments, and insurance premiums, before the same become delinquent. The mortgage shall also make provision for adjustments, in case the estimated amount of such taxes, water rates, *ground rents* and assessments, and insurance premiums shall prove to be more or less than the actual amount thereof so paid by the mortgagor.

(Subsec. (a) effective August 20, 1963; subsec. (b) effective November 26, 1968)

Sec. 32-13-6. Application of payments

(a) The mortgage shall provide that all periodic payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount thereof shall be paid by the mortgagor upon each periodic payment date in a single payment. The mortgagee shall apply the same to the following items in the order set forth: (1) Premium charges under the contract of insurance; (2) *ground rents*, taxes, special assessments and fire and other hazard insurance premiums; (3) interest on the mortgage; (4) any advances made by the mortgagee permitted by section 32-17a(a) of the 1969 supplement to the general statutes; (5) amortization of the principal of the mortgage.

(b) *Any deficiency in the amount of any such aggregate periodic payment shall constitute an event of default. The mortgage shall further provide for a grace period within which time the default shall be made good.*

(Effective November 26, 1968)

Sec. 32-13-7. Prepayment and late charges

(a) **Prepayment privilege.** The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date after giving to the mortgagee thirty days' notice in writing in advance of its intention to so prepay.

(b) **Prepayment charge.** The mortgage may contain a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee. However, the mortgagor shall be permitted to prepay up to fifteen per cent of the original principal amount of the mortgage in any one calendar year without any such additional charge.

(c) **Late charge.** The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed two cents for each dollar of each payment to interest or principal more than fifteen days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate periodic payments.

Sec. 32-13-8. Servicing by mortgagee

All approved mortgagees are required to service insured loans in accordance with acceptable mortgage practices of prudent lending institutions. In the event of default, the mortgagee shall contact the mortgagor and otherwise exercise diligence in collecting the amounts due.

Sec. 32-13-9. Eligibility of property

A mortgage to be eligible for insurance shall be on real estate held (1) in fee simple or (2) on the interest of the lessee under a lease for not less than ninety-nine years having a period of not less than seventy-five years to run from the date the mortgage is executed, and which is renewable, and the building or buildings and improvements thereon shall be completed before issuance of any such insurance.

(Effective November 26, 1968)

Sec. 32-13-10. Certification of cost requirements

Prior to the start of any construction, repair or rehabilitation, the mortgagor, the mortgagee and the commission shall enter into an agreement in form and content satisfactory to the commission for the purpose of precluding any excess of mortgage proceeds over statutory limitations. The agreement shall require that, upon completion of all physical improvements on the mortgaged property, the mortgagor shall execute an affidavit of actual costs. The agreement shall further require that any excess of mortgage proceeds over statutory limitations based on actual costs shall be applied to reduction of the principal of the mortgage committed for insurance by the commission.

Sec. 32-13-11. Adjustment resulting from cost certification

Upon receipt of mortgagor's affidavit of actual cost, there shall be added to the total amount thereof the commission's estimate of the fair market value of any land and existing improvements prior to the construction, repair or rehabilitation included in the mortgage security. *If the land is held under a leasehold or other interest less than a fee, the cost, if any, of acquiring the leasehold or other interest is considered an allowable expense which may be added to actual cost, provided such amount shall not be in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.* If the principal of the mortgage committed by the commission exceeds ninety per cent of this total amount, the commitment shall be reduced by the amount of such excess and the mortgage shall be similarly restricted in amount for insurance.

(Effective November 26, 1968)

Sec. 32-13-12. Eligibility of title

In order for the mortgaged property to be eligible for insurance, the commission shall determine that marketable title thereto is vested in the mortgagor, *subject only to leases, easements, restrictive covenants, current taxes and reservations of fissionable materials to the United States of America.*

(Effective August 20, 1963)

Sec. 32-13-13. Title evidence

Prior to insurance of the mortgage, the mortgagee, without expense to the commission, shall furnish to the commission a survey satisfactory to it and a policy of title insurance or an attorney's opinion of title as provided in subdivisions (1) and (2) of this section: (1) A policy of title insurance with respect to such mortgage, issued by a company satisfactory to the commission. Such policy shall comply with the

ATA standard mortgages form or such other form as may be approved by the commission; shall be payable to the mortgagee and the commission as their respective interests may appear; and shall become an owner's policy, running to the mortgagee as owner upon the acquisition of the property by the mortgagee in extinguishment of a debt through foreclosure or by other means, and to the commission as owner upon the acquisition of the property by it pursuant to the mortgage insurance contract.

(2) A legal opinion satisfactory to the commission, as to the quality of such title, signed by an attorney at law, *** experienced in the examination of titles.

(Subdiv. (2) effective November 26, 1968; remainder of section effective August 20, 1963)

Sec. 32-13-14. Premium

The mortgagee, upon execution of the insurance contract, shall pay to the commission a first mortgage insurance premium equal to two per cent of the original face amount of the mortgage or such lesser percentage as the commission shall require in their formal commitment to insure the mortgage payments. Premiums thereafter shall be at the rate aforesaid on the unpaid principal balance at the beginning of each mortgage year, and shall be payable by the mortgagee at the beginning of each mortgage year and are payable in advance. If premiums are not paid when due, such nonpayment shall constitute a default under any such mortgage and, if such default is not cured within thirty days thereafter, mortgage insurance benefits shall terminate.

Sec. 32-13-15. Form of insurance contract

(a) **Procedure.** Upon compliance with the terms and conditions of a commitment, the commission shall execute a contract to insure the mortgage payments.

(b) **Effect of execution.** From the date of execution, the commission and mortgagee shall be bound by such contract, and the faith and credit of the state are pledged thereto.

Sec. 32-13-16. Defaults

The failure of the mortgagor to abide by the terms of the mortgage deed and mortgage note *** shall be considered a default under such mortgage.

(Effective August 20, 1963)

Sec. 32-13-17. Notice

If the default as defined in section 32-13-16 is not cured within *** *thirty days*, the mortgagee shall, within thirty days thereafter, notify the commission in writing of such default and *** of such action as the mortgagee intends to take to *** *correct such default*.

(Effective August 20, 1963)

Sec. 32-13-18. Commission's right to require acceleration

Repealed, August 20, 1963.

Sec. 32-13-19. Insurance benefit requirements

Repealed, November 26, 1968.

Sec. 32-13-19a. Procedure by mortgagee on default

The mortgagee shall become eligible for the benefits of the insurance provided by chapter 579 of the general statutes, as amended, if such default continues for more than sixty days, or within such other time as may be agreed upon by the commission and mortgagee in writing: (a) The mortgagee shall notify the commission

of its opinion of the prudence of revising the terms of financing, and, if such revision appears to the commission to be prudent, appropriate papers satisfactory to the commission shall be drawn and executed by the mortgagor and mortgagee.

(b) If a revision of the terms of financing does not appear prudent to the commission, and it is deemed advisable by the mortgagee or commission to institute foreclosure proceedings, then the mortgagee shall institute such foreclosure action and either obtain possession of the mortgaged property and the income therefrom through the voluntary surrender thereof and of title thereto by the mortgagor, or prosecute to judgment, with reasonable diligence, such proceedings for the foreclosure of the mortgage, either strict or by sale, and if proper, obtain the appointment of a receiver to manage the mortgaged property and collect the income therefrom and proceed to exercise such other rights and remedies as may be available to it for the protection and preservation of the mortgaged property and to obtain the income therefrom under the mortgage and the laws of this state. Upon institution of foreclosure, the mortgagee shall furnish the commission with copies of the foreclosure complaint and all subsequent pleadings, including a copy of the appraisal report, and in the event of judgment in connection therewith, the mortgagee shall within thirty days after such judgment, file with the commission a certified copy of such judgment.

(c) If the mortgagee so acquires title to the mortgaged property, the mortgagee shall proceed to effect an orderly liquidation of the property within ninety days from such date of acquisition of title. If the property cannot be liquidated within such period at a price equal to or in excess of the total value of the mortgage as defined in section 32-17a of the 1969 supplement to the general statutes, any offer or offers shall be submitted to the commission, which shall, within thirty days of the receipt of the offer or offers, approve one thereof to whom the mortgagee shall then sell or the commission shall accept title as hereinafter provided for.

(d) In the event of foreclosure by sale and a deficiency judgment in connection therewith, the mortgagee shall within thirty days after such deficiency judgment, file with the commission a certified copy of deficiency judgment.

(e) If title to the property passes to the commission the mortgagee shall submit the following documents to the commission: (1) A properly executed deed conveying a marketable title and containing covenants satisfactory to the commission; (2) title evidence satisfactory to the commission and without expense to it, as of a date to include the recordation of the deed to the commission, which shall be in form satisfactory to the commission covering the period subsequent to the recording of the mortgage, or a satisfactory continuation of the title evidence accepted by the commission at the time the mortgage was insured, depending on the form of title evidence originally accepted by the commission; (3) a bill of sale, covering any personal property or other security to which the mortgagee is entitled by reason of the mortgage transaction, conveying title to such property or other security satisfactory to the commission; (4) an assignment of all claims of the mortgagee against the mortgagor or others arising out of the mortgage or the foreclosure, except such claims as may have been released with the consent of the commission.

(f) If the commission determines to accept an assignment of the mortgage indebtedness and all security therefor, the mortgagee shall assign, transfer and deliver to the commission the original mortgage note and the mortgage securing the same, without recourse or warrantee, except that the mortgagee in writing shall warrant that no act or omission of the mortgagee has impaired the validity and the priority of the mortgage, that the mortgage is prior to all mechanics' and materialmen's liens filed of record subsequent to the recording of such mortgage regardless of

whether such liens attached prior to such recording date and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such mortgage, except such liens or other matters as may be approved by the commission and shall provide an affidavit declaring that the amounts stated in the instrument or assignment are actually due and owing under the mortgage, that there are no offsets or counterclaims thereto, and that the mortgagee has a good right to assign same to the commission. In addition, the mortgagee shall assign, transfer and deliver by proper instrument the following: (1) All rights and interest arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction; (3) all policies of title or other insurance or surety bonds or other guarantees, and any and all claims thereunder, including evidence satisfactory to the commission that the original title coverage has been extended to include the assignment of the mortgage to the commission; (4) any cash or property or other security held by the mortgagee and available to the mortgagee for application to the mortgage debt; (5) all records, documents, books, papers and accounts relating to the mortgage transaction; (6) any additional information or data which the commission may require, or an assignment of all claims of the mortgagee against the mortgagor or others arising out of the mortgage or the foreclosure, except such claims as may have been released with the consent of the commission.

(g) Notwithstanding the foregoing, the commission, after default or threatened default, may make payments of instalments of principal or interest or both, and of taxes and insurance, for a temporary period.

(Effective November 26, 1968)

Sec. 32-13-20. Insurance benefits

Repealed, August 20, 1963.

Sec. 32-13-20a. Eligibility for insurance payments

Upon sale of property by the mortgagee, or upon assignment to the commission of the mortgage and of all claims against the mortgagor, or upon deeding the property to the commission, all in accordance with the provisions of section 32-13-19a the mortgagee shall be entitled to the insurance benefits provided in section 32-17a of the 1969 supplement to the general statutes, after deducting any sums received in any sale by the mortgagee.

(Effective November 26, 1968)

Sec. 32-13-21. Protection of mortgage security

(a) **Annual inspection of property by mortgagee.** So long as the mortgage is an insured mortgage, the mortgagee shall ascertain the general physical condition of the mortgaged property in each calendar year commencing with the calendar year following completion of the project. The mortgagee shall furnish the commission and the mortgagor with a copy of its inspection report, which shall contain the mortgagee's recommendations for any necessary corrective action.

(b) **Restoration of property by mortgagee.** If, at any time, it be determined by the mortgagee that, in addition to ordinary wear and tear, the mortgaged property is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the mortgagee shall, unless adequate provision satisfactory to a prudent lender is made for the prompt restoration of the mortgaged property, forthwith take such action as may be available to it under the mortgage and appropriate

to the particular case, for the protection and preservation of the mortgaged property and the income therefrom.

(c) **Insurance of property against fire and hazard.** The mortgaged premises shall at all times be insured against fire and other hazards as provided in the mortgage. The mortgagee shall provide such coverage in the event the mortgagor fails to do so. If the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured, the contract of insurance may be terminated at the election of the commission.

(d) **Effect of failure to provide adequate fire and hazard insurance.** If at the time claim is filed for the payment of insurance the property has been damaged by fire or other hazards and the loss has been sustained by reason of failure to keep the property insured as provided in the mortgage, the amount of such loss may be deducted from the amount of the insurance settlement.

(e) **Application of fire and hazard insurance proceeds.** (1) If a loss has occurred to the mortgaged property under any policy of fire or other hazard insurance and the mortgagee has received the proceeds therefrom, it shall not exercise its option under the mortgage to use the proceeds of such insurance for the repairing, replacing or rebuilding of the premises, or apply them to the mortgage indebtedness, without the prior written approval of the commission, *except for emergency repairs not to exceed the sum of five thousand dollars or five per cent of the insurance in force whichever may be less.* (2) If the proceeds are applied to the mortgage with such prior written approval and result in the payment in full of the entire mortgage indebtedness, the contract of mortgage insurance made with the commission shall thereupon terminate. (3) If the commission fails to give its approval to the use or application of such funds for either of said purposes within thirty days after written request by the mortgagee, the mortgagee may use or apply such funds for any of the purposes specified in the mortgage without the approval of the commission.

(Effective August 20, 1963)

Sec. 32-13-22. Assignment of insured mortgages

(a) An insured mortgage may be transferred only to a transferee who is a mortgagee approved by the commission. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate with respect to mortgages described in subsection (a) of this section upon the transfer or pledge of the insured mortgage to any person, firm, or corporation, public or private, other than an approved mortgagee.

Sec. 32-13-23. No vested right

Neither the mortgagee nor the mortgagor shall have any vested or other right in the industrial building mortgage insurance fund.

Sec. 32-13-24. Amendments not to change contractual rights

These regulations may be amended by the commission at any time and from time to time, in whole or in part, but such amendments may not adversely affect the interest of a mortgagee under the contract of insurance on any mortgage already insured or to be insured on which the commission has made a commitment to insure.

Sec. 32-13-25. Application for insurance

Information required for the examination of an insured loan on machinery and equipment shall be submitted in the form of an application for insurance by an

approved mortgagee and by the sponsors of such project through the executive secretary of the Connecticut Industrial Building Commission, on the commission's form executed in triplicate. No application will be considered unless the exhibits called for by such form are furnished and such application is accompanied by an application fee of such amount as the commission may from time to time prescribe.

(Effective November 26, 1968)

Sec. 32-13-26. Commitments

(a) No commitment shall be valid unless authorized by the commission, and a commitment shall be effective for a stated period. A commitment may be renewed in such manner as the commission may from time to time specify.

(b) No such commitment shall become effective until the applicant has paid to the commission a commitment fee of such amount as the commission may from time to time prescribe.

(c) Upon approval of an application, a commitment shall be issued setting forth the terms and conditions upon which the loan payments shall be insured, including special requirements applicable to the project and requiring the submission in final form within a time specified of all appropriate documents and instruments evidencing full compliance, satisfactory to the commission.

(d) If, upon examination of the application and supporting information, the commission rejects such application, it shall inform the debtor and secured party submitting such application.

(Effective November 26, 1968)

Sec. 32-13-27. Covenant of debtor re insurance

The security agreement shall contain a covenant acceptable to the commission binding the debtor to keep the machinery and equipment insured by a standard policy or policies against fire and such other hazards as the commission may stipulate, in an amount equal to the full value of such machinery and equipment and in no event less than the outstanding indebtedness thereon. The policies evidencing such insurance shall have attached thereto a loss payable clause making loss payable to the secured party and the commission, as their interests may appear prior to any other loss payments.

(Effective November 26, 1968)

Sec. 32-13-28. Covenant of debtor re repairs and statements

(a) The security agreement shall contain covenants acceptable to the commission binding the debtor with respect to repairs and alterations to the machinery and equipment, or to the use of the machinery and equipment for the purposes intended, and to the payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens.

(b) The security agreement shall also contain a covenant that the debtor will forward quarterly statements and an annual certified audited statement to the secured party and the commission within a prescribed period. The annual certified statement may be substituted for the fourth quarter statement.

(Effective November 26, 1968)

Sec. 32-13-29. Security agreement provisions for payment by debtor

(a) The security agreement shall provide for payment by the debtor to the secured party on each interest payment date of an amount sufficient to accumulate in the hands of the secured party, one payment period prior to its due date, the next actual

insurance premium payable by the secured party to the commission. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(b) The security agreement shall provide for such equal periodic payments by the debtor as will amortize the estimated amount of all taxes and fire and other hazard insurance premiums within a period ending one period prior to the dates on which the same become delinquent. The security agreement shall further provide that such payments shall be held by the mortgagee, for the purpose of paying such taxes and insurance premiums, before the same become delinquent. The security agreement shall also make provision for adjustments, in case the estimated amount of such taxes and insurance premiums shall prove to be more or less than the actual amount thereof so paid by the debtor.

(Effective November 26, 1968)

Sec. 32-13-30. Single payment on due date

The security agreement shall provide that all periodic payments to be made by the debtor to the secured party shall be added together and the aggregate amount thereof shall be paid by the debtor upon each periodic payment date in a single payment. The secured party shall apply the same to the following items in the order set forth: (1) Premium charges under the contract of insurance; (2) taxes and fire and other hazard insurance premiums; (3) interest on the debt; (4) amortization of the principal of the debt.

(Effective November 26, 1968)

Sec. 32-13-31. Prepayment. Late charges

(a) The security agreement shall contain a provision permitting the debtor to prepay the debt in whole or in part upon any interest payment date after giving to the secured party thirty days' notice in writing in advance of its intention to so prepay.

(b) The security agreement may contain a provision for such additional charge in the event of prepayment of principal as may be agreed upon between the debtor and the secured party, provided the debtor shall be permitted to prepay up to thirty per cent of the original principal amount of the debt in any one calendar year without any such additional charge.

(c) The security agreement may provide for the collection by the secured party of a late charge, not to exceed two cents for each dollar of each payment to interest or principal more than fifteen days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the debtor and shall not be deducted from any aggregate periodic payment.

(Effective November 26, 1968)

Sec. 32-13-32. Service of insured loans by secured parties

All approved secured parties shall service insured loans in accordance with acceptable practices of prudent lending institutions. In the event of default, the secured party shall contact the debtor and otherwise exercise diligence in collecting the amounts due.

(Effective November 26, 1968)

Sec. 32-13-33. Requirements re insured equipment

A security agreement to be eligible for insurance shall be on machinery and equipment held (1) in fee simple, certified as new equipment by the original manufacturer, or (2) in fee simple, refurbished and remodeled heavy duty capital machinery and equipment which has been guaranteed by the manufacturer with the same

guarantee as new machinery and equipment with a usable life of at least twice the term of the loan request.

(Effective November 26, 1968)

Sec. 32-13-34. Requirements of commitment

The commitment for insurance on machinery and equipment shall require (1) that the debtor execute a certificate of the actual cost of any machinery and equipment to be insured; (2) that the debtor file with the secured party and the commission copies of invoices or other documentary evidence of the cost of any machinery and equipment to be insured; (3) that any excess of loan proceeds over statutory limitations based on actual cost be applied to reduction of the principal of the loan committed for insurance by the commission.

(Effective November 26, 1968)

Sec. 32-13-35. Limitation on commitment

Upon receipt of the debtor's affidavit of actual cost, if the principal of the loan committed by the commission exceeds eighty per cent of such cost, the commitment shall be reduced by the amount of such excess and the loan shall be similarly restricted in amount for insurance.

(Effective November 26, 1968)

Sec. 32-13-36. Title of equipment to be vested in debtor

In order for machinery and equipment to be eligible for insurance, the commission shall determine that title thereto is vested in the debtor, subject only to current taxes.

(Effective November 26, 1968)

Sec. 32-13-37. Documents to be furnished prior to insurance

Prior to the insurance of the loan, the debtor or the secured party, without expense to the commission, shall furnish (1) a bill of sale or other sufficient title instrument for the machinery and equipment to be insured and (2) a certificate from the secretary of the state that as of the date of the security agreement there are no liens or encumbrances on file under the Uniform Commercial Code on any machinery and equipment to be insured.

(Effective November 26, 1968)

Sec. 32-13-38. Premium payments

The secured party, upon execution of the insurance contract, shall pay to the commission a first insurance premium equal to two per cent of the original face amount of the loan or such lesser percentage as the commission shall require in its formal commitment to insure the loan payments. Premiums thereafter shall be at the rate aforesaid on the unpaid principal balance on the anniversary date of the loan each year, and shall be payable by the secured party at the beginning of each year and shall be payable in advance. If premiums are not paid when due, such nonpayment shall constitute a default and if such default is not cured within thirty days thereafter, insurance benefits shall terminate.

(Effective November 26, 1968)

Sec. 32-13-39. Execution of insurance contract

Upon compliance with the terms and conditions of a commitment, the commission shall execute a contract to insure the loan payments.

(Effective November 26, 1968)

Sec. 32-13-40. Debtor's default

(a) The failure of the debtor to abide by the terms of the security agreement and note shall be considered a default.

(b) The note or security agreement shall contain a provision that the failure of the debtor to make a payment of an instalment of principal and interest due under the note within not more than thirty days of the due date shall constitute a default. Upon the occurrence of any such default, any and all sums due and owing by the debtor under the security agreement and note shall, at the option of the secured party, become immediately due and payable.

(Effective November 26, 1968)

Sec. 32-13-41. Notice of default to commission

If a default as defined in section 32-13-40 occurs, the secured party shall, within thirty days thereafter, notify the commission in writing that the security agreement is in default and of such action as the secured party intends to take to correct such default.

(Effective November 26, 1968)

Sec. 32-13-42. Procedure on default

If such default continues for more than sixty days, or within such other time as may be agreed upon by the commission and secured party in writing: (1) The secured party shall notify the commission of its opinion of the prudence of revising the terms of financing, and, if such revision appears to the commission to be prudent, appropriate papers satisfactory to the commission shall be drawn and executed by the debtor and secured party. (2) If a revision of the terms of financing does not appear prudent to the commission and it is deemed advisable by the secured party or commission to institute foreclosure proceedings, reduce the claim to judgment or utilize any other available judicial procedure, then the secured party shall institute such proceedings and obtain possession of the collateral taking whatever judicial process may be necessary to so obtain possession. After obtaining possession of the collateral the secured party shall, with the approval of the commission, proceed to sell, lease or otherwise dispose of any or all collateral in its then condition or following any commercially reasonable preparation or processing and shall apply the proceeds therefrom as required under the laws of this state. Upon the institution of any legal proceedings after default the secured party shall furnish the commission with copies of any and all papers filed in court and shall, within thirty days after rendering of any judgment, file with the commission a certified copy thereof. (3) If title to the collateral passes to the commission, the secured party shall submit the following documents to the commission: (A) A bill of sale covering the machinery and equipment or other security to which the secured party is entitled by reason of the security agreement, conveying title to such property satisfactory to the commission; (B) an assignment of all claims of the secured party against the debtor or others arising out of the security agreement, except such claims as may have been released with the consent of the commission; (C) an assignment of the security interest under the Uniform Commercial Code. (4) If the commission determines to accept an assignment of the insured indebtedness and all security therefor, the secured party shall assign, transfer and deliver to the commission the original note and the security agreement, without recourse or warrantee, except that the secured party shall warrant in writing that no act or omission of the secured party has impaired the validity and the priority of the security interest, that the amounts stated in the instrument of assignment are actually due and owing, that there are no offsets

or counterclaims thereto and that the secured party has a good right to assign the same to the commission. In addition, the secured party shall assign, transfer and deliver by proper instrument the following: (A) All title and interest in the machinery and equipment or other security to which the secured party is entitled by reason of the security agreement; (B) all policies of insurance or surety bonds or other guarantees, and any and all claims thereunder; (C) any cash or property or other security held by the secured party and available to the secured party for application to the debt; (D) all records, documents, books, papers and accounts relating to the insured transaction; (E) any additional information or data which the commission may require; (F) notwithstanding the foregoing, the commission after default or threatened default may make payments of installments of principal or interest or both, and of taxes and insurance, for a temporary period.

(Effective November 26, 1968)

Sec. 32-13-43. Payment of insurance

Upon sale of the secured property by the secured party, or upon assignment to the commission of the insured indebtedness and all security therefor, or upon the passing of title to the secured property to the commission, all in accordance with the provisions of 32-15-19a, the secured party shall be entitled to the benefits of the insurance provided in section 32-16 of the 1969 supplement to the general statutes, after the deduction of any sums received from the sale, lease or other disposition of the secured property.

(Effective November 26, 1968)

Sec. 32-13-44. Inspections by secured party. Care and insuring of property against damage

(a) So long as the loan for machinery and equipment is an insured loan, the secured party shall ascertain the general physical condition of the security in each calendar year commencing with the calendar year following date of the note. The secured party shall furnish the commission and the debtor with a copy of its inspection report, which shall contain the secured party's recommendations for any necessary corrective action.

(b) If, at any time, it is determined by the secured party that, in addition to ordinary wear and tear, the security is being subjected to permanent or substantial injury, through unreasonable use, abuse or neglect, the secured party shall, unless adequate provision satisfactory to a prudent lender is made for prompt restoration of the machinery and equipment, forthwith take such action as may be available to it under the security agreement and appropriate to the particular case, for the protection and preservation of the machinery and equipment.

(c) The machinery and equipment shall at all times be insured against fire and other hazards as provided in the security agreement. The secured party shall provide coverage if the debtor fails to do so. If the secured party fails to pay any premiums necessary to keep the security so insured, the contract of insurance may be terminated at the election of the commission.

(d) If at the time claim is filed for payment of mortgage insurance, the machinery and equipment has been damaged by fire or other hazards and the loss has been sustained by reason of failure to keep the security insured as provided in the security agreement, the amount of such loss may be deducted from the amount of the insurance settlement.

(e) If a loss has occurred to machinery and equipment under any policy of fire or other hazard insurance, and the debtor or secured party has received the proceeds

therefrom, they shall be applied to the indebtedness on such machinery and equipment unless the commission shall approve the application of such proceeds for the purpose of repairing or rebuilding such machinery and equipment. If such proceeds are applied to the indebtedness and result in payment in full thereof, the contract of insurance made with the commission shall terminate.

(Effective November 26, 1968)

Sec. 32-13-45. Transfer of mortgage

(a) An insured mortgage on machinery and equipment may be transferred with the prior written approval of the commission. Such a transferee shall meet all the conditions and obligations of the original secured party. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance, the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate upon the transfer by the secured party to any person, firm or corporation, public or private, without the prior approval required by subsection (a).

(Effective November 26, 1968)

Sec. 32-13-46. Secured party and debtor to have no right in industrial building mortgage insurance fund

Neither the secured party nor the debtor shall have any vested or other right in the industrial building mortgage insurance fund.

(Effective November 26, 1968)

Sec. 32-13-47. Effect of regulation amendment

These regulations may be amended by the commission at any time and from time to time, in whole or in part, but such amendments may not adversely affect the interest of a secured party under the contract of insurance of any mortgage on machinery and equipment already insured or to be insured on which the commission has made a commitment to insure.

(Effective November 26, 1968)