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Government liability based on the conditional guarantee of loans granted to communities

1 Applicable legislation

Based on several statutes, the government is liable to the lender for losses due to the insolvency of the debtor concerning the capital and interest of state-guaranteed loans. The amount of the liability is limited to unpaid amortisations and interest of the loan, that cannot be covered by assets recovered from loan guarantees.

The State Treasury will pay the lender a collateral guarantee-based guarantee compensation from the government's funds once the losses have been determined after the declaration of the debtor's and possible guarantor's insolvency and the sale of the assets used as collateral.

These instructions deal with government guarantees at a general level. The detailed provisions on government-guaranteed loans should always be reviewed separately from the law under which the loan was granted. The regulation related to the government guarantee and guarantee compensation may vary depending on the applicable law.

The government liability presented in these instructions applies to loans granted on the basis of the following acts:

- *Act on Interest Subsidy for Rental Housing Loans and Right of Occupancy Housing Loans (604/2001)*
- *Act on Interest Subsidy for Rental Housing Loans (867/1980)*
- *Act on Interest Subsidy for Right-of-Occupancy Housing Loans (1205/1993)*
- *Laki vuokra-asuntojen rakentamislainojen valtiontakauksesta (856/2008) (Act on Government Guarantees on Construction Loans for Rental Properties)*
- *Laki korkotuesta vuokra-asuntojen rakentamislainoille vuosina 2009 ja 2010 rakennusalan työllisyyden edistämiseksi (176/2009) (Act on Interest Subsidy for Construction Loans for Rental Properties in 2009 and 2010 To Promote Employment in Construction)*
- *Laki vuokratalojen rakentamislainojen lyhytaikaisesta korkotuesta (574/2016) (Act on Short-Term Interest Subsidy for Construction Loans for Rental Properties)*
- *Laki valtiontakauksesta aravalainojen takaisinmaksamiseksi (868/2008) (Act on Government Guarantees for the Repayment of Arava Loans)*
- *Laki asunto-osakeyhtiöiden perusparannuslainojen valtiontakauksesta (941/2014) (Act on Government Guarantees for Renovation Loans for Housing Companies)*



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In addition to this, the Act on Guaranties and Third-Party Pledges (361/1999) is applied to situations involving government guarantees as an act that complements special legislation.

2 Granting and managing loans and looking after securities

2.1 General obligations of the lender

The prerequisite for the validity of the government's liability is that the lender manages the state-guaranteed loan and its securities in accordance with the applicable law and the related statutes and regulations as well as in accordance with sound banking practice.

2.2 Granting a loan

When granting a loan, the lender must carefully determine the debtor's solvency and take it into account when making a loan decision. Loans must not be granted to debtors who already have documented payment difficulties, such as payment default entries. When assessing the debtor's solvency, the back-end weighted nature of amortisations and the debtor's ability to manage their amortisations towards the end of the loan period must be taken into account, insofar as it is reasonably possible at the time of granting the loan and with the means available to the lender. The information provided by the debtor must be verified. The lender must retain the documents and reports related to the granting of the loan.

The promissory note or loan agreement must state that the State Treasury may collect the guarantee compensation paid to the lender from the debtor and charge annual interest on the guarantee compensation to the debtor, in accordance with the interest rate specified in section 4, subsection 1 of the Interest Act.

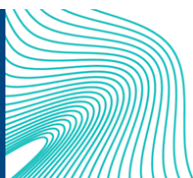
2.3 Loan management

The lender must manage the government-guaranteed loan in accordance with the applicable legislation and the resulting statutes and regulations, as well as sound banking practice.

The lender must react to any payment default entries the debtor may have in a timely manner and always inform the State Treasury of any delayed payments in the manner specified in the provision issued by the State Treasury on the electronic transfer of loan data to the State Treasury on rental housing and right-of-occupancy housing loans. All loan collection measures must be carried out responsibly and in a timely manner.

The interest rate ceiling fee cannot be linked to the loan margin or added to the capital, and any interest rate collars are also forbidden.

The lender can be replaced and the repayment schedule, interest, and other



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terms of the loan can be changed during the loan period, if the State Treasury approves the change. However, decisions concerning so-called short interest subsidy loans¹ are made by the Centre for State-Subsidised Housing Construction (Varke). Any changes to the loan's terms and securities must be approved by the State Treasury. Approval can be applied for from the State Treasury with a written, free-form application.

2.4 Collateral

2.4.1 Lender's duty to manage collaterals

The lender must manage assets serving as collateral for the interest-subsidy loan and ensure that their value does not decrease. The applicable loan or collateral terms must include a condition stating that the debtor or guarantor has the duty to take out sufficient insurance for the assets used as collateral. Based on the information available to the lender, it is the lender's duty to ensure that the assets used as collateral are continuously insured, for example with construction work insurance during construction and with full-value insurance after the construction work has been completed.

In the event of damage, the lender must do their part to manage the collateral so that the effects of the damage can be minimised to the furthest extent possible. The lender must oversee that the insurance payments resulting from the damage to the assets are paid to the collateral holder.

2.4.2 Changes to the collateral during the loan period

The collateral for government-guaranteed loans can be changed during the loan period if the State Treasury approves the new collateral. Those wishing to apply for the approval of a collateral change must submit a written, free-form application according to the [State Treasury's instructions](#).

The change in collateral must not increase the government's risk of credit loss.

2.4.3 Liquidation of collateral

The liquidation of the collateral must be initiated without delay when there are grounds for this measure as a result of the debtor's payment delays. The lender may file a suit to claim payment from the debtor, potential guarantors and/or the assets used as collateral, seek the distraint or sale of the assets used as collateral in accordance with the Enforcement Code, and impose bankruptcy on the debtor without first consulting the State Treasury. The State Treasury must, however, be notified immediately when the matter has entered enforcement or been initiated in a court of law. The lender must monitor the claim and its priority carefully.

The lender is obliged to attend to state interests and comply with the regulations issued by the State Treasury when the assets serving as collateral for the loan

¹ Loans granted under the Act on Short-Term Interest Subsidy for Construction Loans for Rental Properties (574/2016)



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guaranteed by the government are liquidated in a sale by court order or in bankruptcy proceedings. A composition or a comparable arrangement or voluntary liquidation of the assets serving as collateral for the interest-subsidy loan in a manner endangering the recovery of the loan may only be done with consent from the State Treasury.

The consent request must be accompanied by appraisal documents on the assets, if such documents have been made, and other necessary evidence of the sale of the assets.

Any notifications and requests related to the capitalisation of the collateral must be submitted by email to [korkotuki\(at\)valtiokonttori.fi](mailto:korkotuki(at)valtiokonttori.fi).

3 Payment of the guarantee compensation

3.1 Preconditions for the payment of the guarantee compensation

3.1.1 Liability of the government

The government is liable to the lender for any losses of the principal and interest on a loan guaranteed by the government due to the insolvency of the debtor, to the extent that the funds accruing from the collateral securing the loan are insufficient to cover the amortisations and interest outstanding on the loan.

3.1.2 Liquidation of collateral assets

Any assets used as collateral must be liquidated before the guarantee compensation can be paid.

The assets used as collateral do not need to be liquidated if the debtor is entitled to keep their collateral according to the reorganisation proceedings specified in the Restructuring of Enterprises Act.

3.1.3 Insolvency

After the sale of the collateral, the debtor's insolvency is estimated separately. The insolvency may be based on bankruptcy or insolvency determined during enforcement, a reduction in receivables during corporate reorganisation proceedings, or other similar grounds that, in individual cases, can be used to demonstrate the debtor's insolvency.

3.1.4 Determination of loss

The government's liability will be realised once the losses have been determined after the insolvency of the debtor and possible guarantor has been determined and the assets used as collateral have been liquidated. Some of the applicable provisions require the loss to be irrecoverable, so it is always advisable to review the applicable regulations.



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In the event of bankruptcy, the guarantee compensation can be paid once the assets used to secure the loan have been sold and the debtor has been declared bankrupt. If the loss is required to be irrecoverable, the bankruptcy proceedings must have been finalised.

When a debtor enters corporate reorganisation, the guarantee compensation can be paid on the basis of a verified payment schedule. The payment schedule does not need to have legal force. The amount of debt reduced in the reorganisation proceedings will be paid as compensation. The assets used as collateral must be sold before the compensation can be paid, unless the debtor is allowed to retain said assets as part of the reorganisation proceedings.

The loss incurred as a result of the debtor's insolvency can also be established with an impediment demonstrating a lack of means determined during enforcement proceeding. In this event, the State Treasury must be provided with a certificate of the impediment for lack of means issued by enforcement, as well as the most recent enforcement inquiry.

The loss can also be established on other, similar grounds, based on the consideration of an individual case.

3.1.5 Reduction or non-payment of the guarantee compensation

Payment of the compensation may be withheld or the amount of compensation reduced if the applicable laws or the resulting statutes and regulations or sound banking practice have not been observed in the granting or managing the loan or managing its collateral.

The lender must note that if any non-minor changes are made to the terms of the loan during the loan period without the approval of the State Treasury or Centre for State-Subsidised Housing Construction (Varke), the guarantee compensation can be reduced or withheld altogether.

3.1.6 Interest on late payment

The applicable legislation may contain limitations on the payment of interest on late payment included in the guarantee compensation.

If the liability for compensation for late payment interest has been restricted in any applicable legislation, the guarantee compensation may include the maximum interest on late payment specified in section 4, subsection 1 of the Interest Act until the lender has been paid their receivables. As such, the government will pay interest on late payment in accordance with the credit agreement until the date that the preconditions for applying for guarantee compensation are met, and interest on late payment in accordance with the Interest Act from the moment the processing of the guarantee compensation application is initiated at the State Treasury and until the moment the compensation is paid. This provision applies only to loans approved on and after 1 September 2023.



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3.2 Payment of compensation and the lender's obligation to remit payments

Upon application, the State Treasury will pay the guarantee compensation to the lender without undue delay once the losses have been determined after the declaration of the debtor's and possible guarantor's insolvency and the sale of the assets used as collateral.

If the lender is able to collect unpaid amortisations and interest from the debtor after the guarantee compensation is paid, the lender must remit them to the State Treasury. If the lender receives any payments after the end of the bankruptcy proceedings or any other payments that would lead to a reduction in the amount of loss incurred by the loan granter, these must also be paid back to the State Treasury.

4 Contact information

State Treasury
Loans and Guarantees
Communities Finance
PO Box 14
00054 STATE TREASURY

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