



United States Department of Agriculture
Rural Development
Pennsylvania State Office
www.rurdev.usda.gov/pa

PA AN 1232 (1902-A)
October 23, 2008

SUBJECT: Dates of Documents Used in “Pre-Closing”
ACH/EFT Transactions

TO: All Rural Development Staff
Rural Development, Pennsylvania

PURPOSE/INTENDED OUTCOME:

The purpose of this AN is to clarify the issue of dating and execution of loan closing documents for loans utilizing ACH/EFT fund transfers as described in PA Instruction 1902-A (PN No. 252).

COMPARISON WITH PREVIOUS AN:

This AN replaces PA AN 1220 which was issued September 21, 2007 and expired September 30, 2008. This AN also clarifies that loan funds should not be requested until after the execution of closing documents.

IMPLEMENTATION RESPONSIBILITIES:

The “Pre-Closing” described in PA Instruction 1902-A (PN No. 252) requires the execution of debt instruments prior to funds being deposited in the borrower’s bank account through ACH/EFT transaction. “Execution” means properly signed, dated and notarized (or acknowledged).

All dates on the document must match, including the date of the document, date of the signature and the date of the notary seal. The “Pre-closing” documents must be dated and notarized the date they are actually signed, but could be recorded at a later date. Security instruments must be recorded on or before the date that the funds are deposited in the borrower’s bank account. The date of the documents can be anytime on or before the recording date, but the Agency will not accept documents dated after the signature date.

EXPIRATION DATE:
October 31, 2009

FILING INSTRUCTIONS:
Preceding RD Instruction 1902-A

One Credit Union Place, Suite 330, Harrisburg, PA 17110-2996
(717) 237-2299 TTY/TDD & Voice: 711; TTY/TDD only: 1-800-654-5984

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The exception to this policy is closing loans where municipal bonds are being taken as security, such as Water and Waste Disposal or Community Facilities loans to municipalities. Tax law requires that the bond issuance date occur when funds are delivered to the borrower by EFT/ACH transfer. Since the bond must be executed prior to ordering funds, the issuance date will therefore always be later than the date of execution of the closing documents. Due to this requirement, we will permit the bonds and other closing documents to be post-dated to the issuance date, if requested by the Bond Counsel.

The important thing to remember is that you must NEVER request an advance of funds through EFT/ACH unless all the closing documents have been signed and dated in accordance with the preceding paragraphs. The person who authorizes fund disbursement without proper security in accordance with the closing instructions may be held liable for any loss to the Government that could result, so be sure that you verify the closing documents have been signed before you order any funds.

If you have any questions, please call the Community Programs Division at (717) 237-2188.

/s/ Gary H. Groves

GARY H. GROVES
State Director