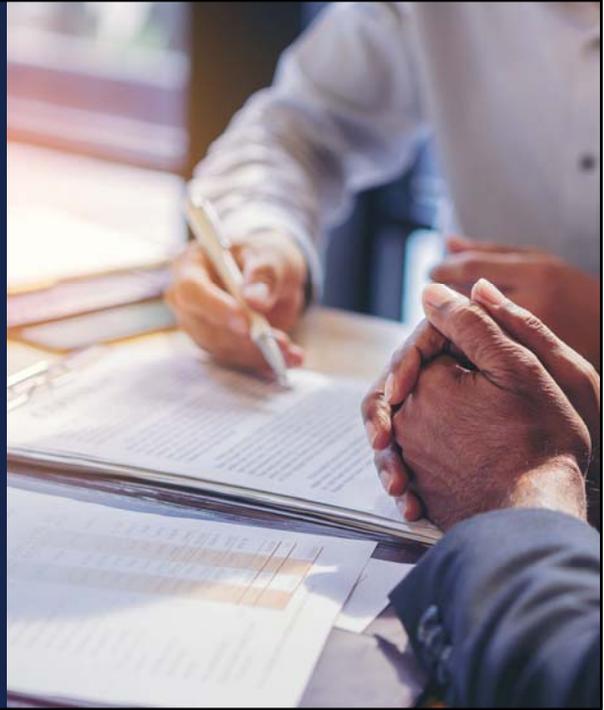


Ownership Requirements

Single Family Housing Guaranteed Loan Program
(SFHGLP)

December 2020



Welcome to the Ownership Requirements online training module presented by USDA's Single-Family Housing Guaranteed Loan Program.



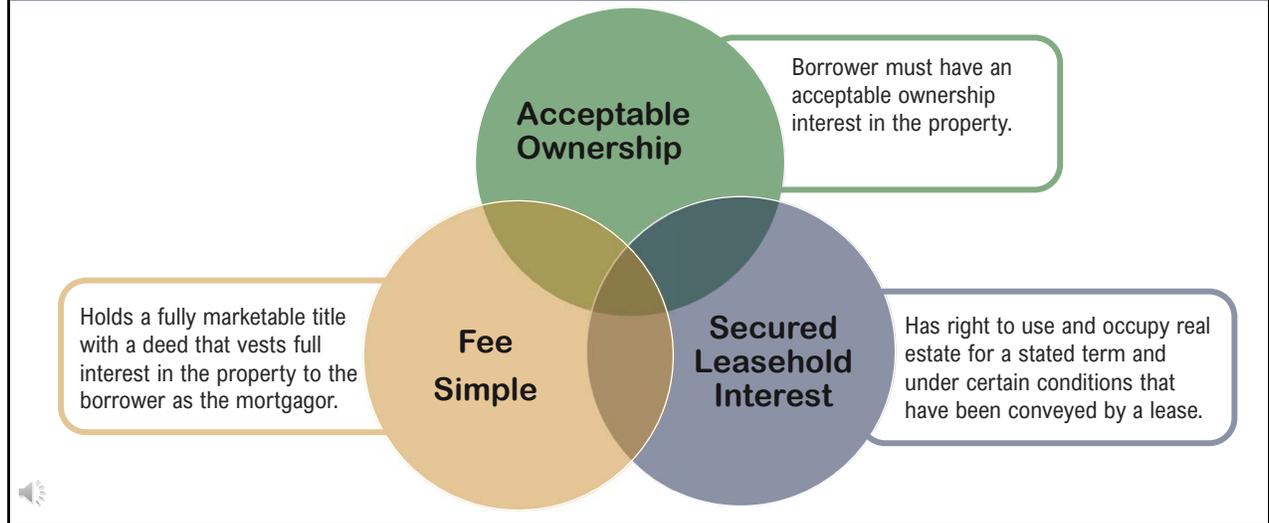
Fee Simple VS Leasehold

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After the loan is closed, the borrower must have an acceptable ownership interest in the property. This module will cover program requirements as they pertain to the varying types of property ownership.

Ownership Requirements

7 CFR 3555.203



- Fee-Simple Ownership is the most common. With Fee-Simple Ownership the borrower holds a fully marketable title to the property. This is evidenced by a deed that vests full interest in the property to the borrower as the mortgagor.
- The other type is Secured leasehold interest. This is the right to use and occupy real estate for a stated term and under certain conditions that have been conveyed by a lease.

Secured Leasehold Interest

7 CFR 3555.203(b) and HB-1-3555, Chapter 13.4 B

1 Borrower is unable to obtain fee simple title to the property.

2 Leasehold must be fully marketable in the area.

Except properties located on American Indian restricted land.

3 Unexpired term of at least 45 years from the date of the loan closing.

Except properties located on American Indian restricted land.

4 Mortgage must cover both the property improvements and the land.

5 Leasehold estate must constitute real property, subject to the mortgage lien, insured by a title policy.

6 Lease must be recorded in the appropriate local real estate records.

Mortgages subject to leasehold estates must meet the following conditions:

- 1) The borrower must be unable to obtain fee simple title to the property
- 2) The secured leasehold must be fully marketable in the area, except in the case of properties located on American Indian restricted land
- 3) The lease term must run 15 years beyond the maturity date of the loan, except in the case of properties located on American Indian restricted land
- 4) The mortgage must cover both the property improvements and the leasehold interest in the land
- 5) The leasehold estate must constitute real property, be subject to the mortgage lien, and be insured by a title policy. It also must be assignable or transferable and cannot be terminated except for nonpayment of lease rent, and
- 6) The lease must be recorded in the appropriate local real estate records

Loans to Native Americans on Restricted or Trust Land

HB-1-3555, Chapter 16.12(B)(2)



Evidence of legal/effective foreclosure procedures



Evidence of legal/effective eviction procedures



Procedures ensuring the Guaranteed loan will always have first priority



Copy of tribe's lease for use on residential land



Lender will adhere to the tribe's mortgage, foreclosure, and eviction ordinances



See Chapter 16.12(B)(2) for guidance on all other leasehold interest

For loans to Native Americans on restricted or trust land, the lender must obtain:

- Evidence that the tribe has enacted legally binding and effective foreclosure and eviction procedures, and will enforce those procedures upon notice of default from a lender.
- Evidence that the tribe has adopted procedures ensuring that the guaranteed loan will always have first lien priority (if applicable) and will be satisfied before all other property debts (except tribal taxes) OR has adopted legislation requiring the tribe to follow state or local priority of lien procedures.
- A copy of the tribe's lease for use on residential land, and the lender will adhere to the Tribe's mortgage, foreclosure and eviction ordinances and the terms of the lease.
- The lender can only sell the leasehold interest to the Tribe, the tribe's designated housing entity, or another tribal member.

Ownership Requirements

Lender Responsibility

HB-1-3555 Chapter 16.12 A

Lender Responsibility

Compare the deed of trust or real estate mortgage with title to:

- ✓ Assess lien priority
- ✓ Assure collateral is accurately covered
- ✓ Verify date/time recorded
- ✓ Ensure all closing instructions have been followed

Once the loan has closed the lender must compare the deed of trust or real estate mortgage with the title opinion to assess lien priority, assure the collateral is accurately covered, verify the date and time recorded, and ensure the loan closing instructions have been followed. It is the lender's responsibility to ensure that if the borrower defaults on the loan, the lender must be able to foreclose on the property.

Ownership Requirements 

Secure Leasehold Interest 

HB-1-3555
Chapter
16.12(B)(2) 

Lender Responsibility

Leasehold Interest Properties

- ✓ Rent charged for the lease may not exceed the rate paid for comparable leases.
- ✓ Appraisal must document the lease conditions.
- ✓ Lessor must own the fee-simple title.
- ✓ Attachment 16-B - The language regarding amendments to mortgages with leasehold interests and must be inserted in the mortgage.

Here are a few additional items for review on Leasehold Interest Properties:

- The rent charged for the lease may not exceed the rate paid for comparable leases
- The appraisal must document the lease conditions
- Evidence of ownership of the fee-simple title
- Lastly, the language on Attachment 16-B must be inserted in the mortgage document for leasehold interest properties

The Agency considers a loan adequately secured only when all of the following requirements are met:

- A mortgage is obtained at closing on all required ownership and leasehold interests in the secured property, and the lender ensures the loan is properly closed;
- No liens prior to the guaranteed mortgage can exist except in conjunction with a supplemental loan for transfer and assumption. The guaranteed loan must have first lien position and junior liens by other parties are only permitted if they do not adversely affect repayment ability or the collateral for the guaranteed loan;
- All existing and proposed property improvements must be completely on the site and can not encroach on any adjoining property; and,
- All collateral secures the entire loan.

Community Land Trust

7 CFR 3555.206 and HB-1-3555, Chapter 13.3



For a loan to be guaranteed by the Agency, a community land trust must meet the definition in 7 CFR 3555.10 and have the following requirements:

- 1) Rural Development must review and accept any restrictions imposed by the community land trust on the property and applicant before loan closing. The Agency may place conditions on the approval of restrictions on resale price and rights of first refusal.
- 2) The community land trust automatically and permanently must terminate upon foreclosure or acceptance by the lender of a deed in lieu of foreclosure.
- 3) The organization must meet the definition of a community land trust as defined in the Housing Act of 1949 and the following requirements:
 - Be organized under State or local laws and members, founders, contributors or individuals cannot benefit from any part of net earnings of the organization.
 - The organization must be dedicated to decent affordable housing for low-and moderate-income people and must comply with financial accountability.
- 4) The lender's file must contain documentation that the community land trust has community support, local market acceptance and 2 years of prior experience in providing affordable housing.
- 5) A property located on a site owned by a community land trust must be appraised as leasehold interest and meet the provisions of 7 CFR 3555.203.

LEARNING CHECKS

7 CFR Part 3555 / HB-1-3555



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The best way to learn information is to test your knowledge!

QUESTION

Training Topic

- Question will be bulleted with scenario, or
- Include a statement/question

TRUE/FALSE or other answer options will be displayed



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The following question slides will list:

- The topic,
- A question or scenario, and
- potential responses

ANSWER

Training Topic

7 CFR Part 3555 and HB-1-3555 references provided

X. Correct Response

- Additional guidance for clarification provided



The answer slides will list:

- The topic,
- the reference to the answer from the regulation and handbook,
- the correct response, and
- any additional clarification that may be helpful.

Ready?

LET'S GET
STARTED!



Let's get started!

QUESTION

Ownership Requirements

- If a borrower is selling a property that is currently in a Community Land Trust, would Rural Development consider 50% to be a reasonable share of the appreciation for the borrower?

A. YES B. NO



Read the question on the slide and select a response.

ANSWER

Ownership Requirements

HB-1-3555 13.3(C)

A. YES

C. Restrictions on Resale Price

- If the program permits the borrower to sell the property at market value but recaptures part of the equity, the Agency considers a reasonable share of appreciation to be at least 50 percent. The Agency does not object to situations whereby the borrower's share of appreciation is on a sliding scale beginning at zero, provided that within two years the homeowner would be permitted to retain 50 percent of the appreciation.



A. YES

If the program permits the borrower to sell the property at market value and recapture part of the equity. The Agency considers a reasonable share of appreciation to be at least 50 percent. The Agency does not object to situations whereby the borrower's share of appreciation is on a sliding scale beginning at zero, provided that within two years, the homeowner would be permitted to retain 50 percent of the appreciation.

QUESTION

Ownership Requirements

- If a borrower is selling a home that is part of a Community Land Trust, which item below is not a required cost the borrower is permitted to recover?
 - A. Original Purchase Price
 - B. Sales Commission
 - C. Seller Paid Closing Costs
 - D. Capital Improvements



Read the question on the slide and select a response.

ANSWER

Ownership Requirements

HB-1-3555 13.3(C)

C. Seller Paid Closing Costs

- The borrower must be permitted to recover at least the original purchase price, sales commission, and cost of capital improvements when the borrower sells the property.

C. Seller Paid Closing Costs

The borrower must be permitted to recover at least the original purchase price, sales commission, and cost of capital improvements when the borrower sells the property.

QUESTION

Ownership Requirements

- Whose responsibility is it to compare the deed or trust or real estate mortgage with the title opinion to assess lien priority?
- A. The Borrower
 - B. The Agency
 - C. The Lender
 - D. The Closing Agent



Read the question on the slide and select a response.

ANSWER

Ownership Requirements

HB-1-3555 16.12(A)

C. The Lender

- After closing, the lender must compare the deed of trust or real estate mortgage with the title opinion to assess lien priority, assure the collateral is accurately covered, verify the date and time record, and ensure that the loan closing instructions have been followed.

C. The Lender

After closing, the lender must compare the deed of trust or real estate mortgage with the title opinion to assess lien priority, assure the collateral is accurately covered, verify the date and time record, and ensure that the loan closing instructions have been followed.

QUESTION

Ownership Requirements

- What two forms of ownership are acceptable to Rural Development?
- A. Common Interest Community
 - B. Secure Leasehold Interest
 - C. Community Property
 - D. Fee Simple



Read the question on the slide and select a response.

ANSWER

Ownership Requirements

7 CFR Part 3555.203 and HB-1-3555 16.12(B)

**B. Secure Leasehold Interest and
D. Fee-Simple Ownership**

After the loan is closed, the borrower must have an acceptable ownership interest in the property.



B. and D. Secure Leasehold Interest and Fee-Simple Ownership

Once the loan is closed the borrower must have an acceptable ownership interest in the property, this would be either Fee-Simple Ownership or Secured leasehold Interest.

QUESTION

Ownership Requirements

- What is a Community Land Trust

- A. A type of property that is owned by multiple people.
- B. A type of property that is only owned by a married couple.
- C. A community housing development organization that owns and leases land at affordable prices.



Read the question on the slide and select a response.

ANSWER

Ownership Requirements

7 CFR Part 3555.10 and HB-1-3555 13.3 (A)

C. A community housing development organization that owns and leases land at affordable prices

- *Community land trust.* A private nonprofit community housing development organization that is established to acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases.

C.

A community land trust is defined as a private nonprofit community housing development organization that owns and leases land at affordable prices. A community land trust sells the property improvements (i.e., buildings, streets, sewers) that normally increase the land's value but leases the land under a long-term ground lease to low- and moderate-income households.

Way to Go!
LEARNING CHECK
COMPLETED!



Way to go! You have completed the learning checks!

Lender Toolkit



Rural Development has developed numerous tools and resources to assist lenders with originating, processing, and servicing guaranteed loans.

- This training module has provided you with an overview of the key requirements of Ownership Requirements.
- Complete program requirements and guidance on this topic can be found in 7 CFR Part 3555, Subpart E, Sections 3555.202, .203, and .206 and Chapters 13 and 16 of HB-1-3555.
- Be sure to bookmark these references, save yourself valuable time by using Cntrl-F to quickly search and find answers, and always ensure you are referencing the most current publications.
- The “Program Overview Training” module will assist you in learning how to navigate through all the resources and tools Rural Development has created to assist you.

Have a question on POLICY?
Contact the PAC team!

Need TRAINING?
Contact the LPA team!

Have a question on a SPECIFIC FILE?
Contact the OPD!

Rural Development
U.S. DEPARTMENT OF AGRICULTURE

Single Family Housing Guaranteed Loan Program (SFHGLP)
Contacts & Resources

TOPIC	CONTACT
File-Specific Questions Information to include in email: <ul style="list-style-type: none"> Identify the state the application is located; if applicable; Provide applicant's name and USDA borrower ID, if applicable; GUS loan number, if applicable Include contact information; and Indicate if you would like a call back (otherwise you will receive an email reply) 	Production Team One: SFHGLPONE@usda.gov AK, AL, AZ, CA, CO, GU, HI, IA, ID, KS, MT, NM, NV, OR, SD, TX, UT, WA, WI, WY, WY Production Team Two: SFHGLPTWO@usda.gov AR, KY, LA, MN, MO, MS, ND, NE, NJ, NY, OK Production Team Three: SFHGLPTHREE@usda.gov CT, DE, GA, IL, MA, MD, ME, MI, NC, NH, RI, SC, VT, WV Production Team Four: SFHGLPFOUR@usda.gov FL, IN, OH, PA, PR, TN, VA, VI
Lender Approval	sfhld.compliance@usda.gov
Lender Recertification	
Program Training	sfhld.lenderpartner@usda.gov
Program Marketing & Outreach	
General Loan Scenario Questions	sfhld.program@usda.gov
Loan Policy/Regulation/Handbook	
Loan Servicing	sfhgpservicing@usda.gov
Technical Issues: e-Authentication	eAuthHelpDesk@fnc.usda.gov 800-457-3642, option 1 (USDA e-Authentication Issues)
Technical Issues: GUS	RD.HD@STL.USDA.GOV 800-457-3642, option 2 (USDA Applications); then option 2 (Rural Development)
Loss Claims	guarantee.nrc@st.usda.gov
Monthly & Quarterly Status Reporting	
GUS User Agreements	rd.nfaoc.hsb@st.usda.gov
TOOLS & RESOURCES	
Regulation and Handbook: https://www.rd.usda.gov/resources/directives Lender Webpage—Turn times, contact information, and helpful links: https://www.rd.usda.gov/page/sfh-guaranteed-lender USDA LINC—Training modules, user guides, and more useful resources: https://www.rd.usda.gov/programs-services/lenders/usda-linc-training-resource-library GovDelivery—Receive notifications regarding origination, servicing, and GUS updates: https://public.govdelivery.com/accounts/USDARD/subscribe/new	

Rev. 07/08/2020

- Users should first look for answers to their questions in the regulation and handbook, but if you still have a question after reviewing your resources, we're here to help.
- All policy and regulation questions regarding the topic we just covered should be sent to our Policy, Analysis, and Communications Branch and
- If you would like to request additional program training, contact our Lender and Partner Activities Branch.

The Single Family Housing Guaranteed Lender webpage was specifically designed for our lending partners and includes information such as:

- Current turn times on new loan applications
- Contact information, and
- Links to program resources such as our 3555 Handbook and the [USDA LINC](#) website.
- Also, don't forget to sign up for our GovDelivery email notifications. Rural Development sends out origination, GUS, and servicing messages to alert lenders of new publications, clarifications, and additional program updates.

Thank you for supporting the USDA Single Family Housing Guaranteed Loan Program and America's rural homebuyers!



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1 (800) 800-670-6553

USDA is an equal opportunity provider, employer, and lender.



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This will conclude the training module. Thank you and have a great day!