

## **CHAPTER 16: CLOSING THE LOAN AND REQUESTING THE GUARANTEE 7 CFR 3555.107**

### **16.1 INTRODUCTION**

The lender is required to comply with all conditions stated on Form RD 3555-18 or Form RD 3555-18E, *Conditional Commitment for Single Family Housing Loan Guarantee*, and any attachments, as applicable. The loan must close under the same terms as underwritten and approved for in the Conditional Commitment.

### **16.2 CLOSING THE LOAN**

#### **Required Closing Timeframe:**

- Purchase and refinance transactions - the lender has 90 days from the issuance of the Conditional Commitment to close the loan, with an opportunity for one 90-day extension. The extension must be requested prior to the expiration of the Conditional Commitment.
- Construction transactions - the expiration date for new construction, other than the “combination construction to permanent loan” option outlined in Chapter 12, should correspond with the estimated project completion date, but cannot exceed 12-months.
- Requests for extensions must be approved by the Agency in writing. Upon approval, a new Conditional Commitment will be issued reflecting the new expiration date. The Guaranteed Loan System (GLS) application page will be updated with the commitment extension.

#### **Closing in Compliance with Conditional Commitment Approval:**

- The loan must close under the same, or more favorable, terms as underwritten and approved on the Conditional Commitment. Any changes in the loan terms, characteristics of the applicant, or characteristics of the property between the issuance of Conditional Commitment and loan closing requires the lender to notify the Agency in writing.
- Adverse changes may require the release of the application submitted in the Guaranteed Underwriting System (GUS) to the lender for correction and resubmission to ensure there is no impact to the underwriting recommendation.

Refer to Chapter 5 for guidance on file submission.

- The Agency must verify in writing, prior to loan closing, that the changes are acceptable. Failure by the lender to obtain approval from the Agency may result in denial of the request for Form RD 3555-17 or Form RD 3555-17E, *Loan Note Guarantee*.

**Signatures:**

- All individuals applying for the loan and assuming responsibility for the mortgage debt must sign the Uniform Residential Loan Application and any addenda.
- Standard industry closing documents are utilized when closing the loan. The lender is required to ensure a valid and enforceable first lien on the property is obtained. Any individual whose signature is required by state law must sign the security instruments and/or note to create a valid first lien, to pass clear title, or to waive inchoate rights. All owners to be vested in title must sign the security instruments, except as noted in this section.
- Lenders should not encourage borrowers to sign blank or incomplete documents.

A Power of Attorney (POA) may be used when the mortgagee verifies and documents that the following applicable requirements have been satisfied:

- Any specific or general POA must comply with state law and allow for legal enforcement of the mortgage note.
- For military personnel, a POA may only be used for one of the applications (initial or final), but not both:
  - when the service member is on overseas duty or on an unaccompanied tour;
  - when the mortgagee is unable to obtain the absent borrower's signature on the application by mail or via fax; and
  - where the attorney-in-fact has specific authority to encumber the property and to obligate the borrower. Acceptable evidence includes a durable POA specifically designed to survive incapacity and avoid the need for court proceedings.
- For incapacitated borrowers, a POA may only be used where:
  - a borrower is incapacitated and unable to sign the mortgage application;

- the incapacitated individual will occupy the property to be guaranteed; and
- the attorney-in-fact has specific authority to encumber the property and to obligate the borrower. Acceptable evidence includes a durable POA specifically designed to survive incapacity and avoid the need for court proceedings.

Electronic signatures in accordance with the conditions outlined in Chapter 15 of this Handbook may be accepted.

**Title Evidence.** The lender will ensure that the mortgage must have a valid first lien position at closing and is covered by either a title insurance policy issued by an acceptable insurer (including any required endorsements) or an attorney's title opinion letter issued by an attorney experienced in the examination of titles in the jurisdiction where the subject property is located. When using attorney title opinion letters, the lender will retain the documentation the attorney used in making its determination on the title coverage in their permanent case loan file. Additional guidance for acceptable lien position requirements can be found in this Chapter. The lender should be aware of any additional investor criteria/overlays beyond the SFHGLP requirements regarding the use of attorney opinion letters.

Below are the requirements for the use of each title evidence type:

<b>Title Insurance</b>	<b>Attorney Title Opinion</b>
The guaranteed loan must be in first lien position when recorded.	The guaranteed loan must be in first lien position when recorded.
The title policy must list all other liens and state that they are subordinate to the guaranteed loan.	The attorney opinion letter must list all other liens and state that they are subordinate to the guaranteed loan.
The amount of title insurance coverage must at least equal the original principal amount of the loan.	The attorney opinion letter must include language relating to the amount of coverage that must at least equal the original principal amount of the loan.
The title policy must provide evidence of good and marketable title. If there are exceptions discovered during the title search, the lender is responsible for reviewing and determining if those title exceptions affect the property's value or marketability.	The attorney opinion letter must be prepared and signed by an attorney licensed to practice law in the jurisdiction where the subject property is located and experienced in examination of titles for all property types. If there are any exceptions discovered, the lender is responsible for

	reviewing and determining if those exceptions affect the property's value and marketability.
The following property types are ineligible for an attorney title opinion letter: <ul style="list-style-type: none"> <li>• Manufactured Homes</li> <li>• Leasehold Estates (Native American restricted land and Community Land Trust)</li> </ul>	

**Interest Credit Closing.** To reduce the burden on borrowers whose loans were scheduled to close at the end of the month, but did not due to unforeseen circumstances, lenders and borrowers may agree to credit the per diem interest to the borrower and have the mortgage payments begin the first of the succeeding month.

**Lender Certification.** The lender will certify that the loan has been underwritten and closed in accordance with 7 CFR 3555.107, that it meets all conditions set forth in the Conditional Commitment, and that all documentation has been submitted to Rural Development. The lender acknowledges that upon receipt and acceptance of the conditions of the Conditional Commitment and the required fees in the appropriate amount, Rural Development will execute and issue the Loan Note Guarantee.

### 16.3 REQUESTING THE LOAN NOTE GUARANTEE

The lender must provide evidence the loan was properly closed and remit the upfront loan guarantee fee and the USDA technology fee within 30 days of closing the loan. Requests received more than 30 days after loan closing will be considered, however the submission must include a payment history verifying the loan is current, as well as certification that all required escrow accounts are current and neither the lender nor another interested party provided funds to bring and/or keep the mortgage current to obtain the Loan Note Guarantee. A Loan Note Guarantee will not be issued beyond 30 days of the loan closing if the account is in default at the time of the Loan Note Guarantee request.

Approved lenders must submit all guaranteed loan closing transactions to the Agency electronically via the Lender Loan Closing (LLC) system.

Lenders are required to execute and submit a Lender Loan Closing User Agreement to the Agency prior to gaining access to the system. Individual user access requires a validated eAuthentication ID and password (formerly Level 2). User guides for gaining access to and using the LLC system can be found at

<https://www.rd.usda.gov/resources/usda-linc-training-resource-library>.

Lenders must upload the following documentation in the LLC system to receive a Loan Note Guarantee:

- Final Closing Disclosure. The closing date listed on the Closing Disclosure must be entered on the GLS “Add/Update Loan Closing” screen. The Closing Disclosure is not required to be signed;
- Promissory Note; and
- Any other necessary documentation as specified in the Conditional Commitment.

In addition to uploading documentation, lenders are required to enter basic loan closing information (e.g. loan closing date, promissory note amount, etc.) into the system and authorize electronic payment of the upfront guarantee fee and the USDA technology fee through the Pay.gov interface.

## **16.4 UPFRONT LOAN GUARANTEE FEE**

Lenders will pay the Agency the upfront guarantee fee through the LLC system interface with Pay.gov. The fee may be passed onto the borrower and is an eligible loan purpose. If the Agency is unable to issue the Loan Note Guarantee, the fee may be returned to the lender. Once the Loan Note Guarantee is issued, the fee is not refundable.

The upfront guarantee fee amount is published in Exhibit K, of RD Instruction 440.1, available in any Rural Development office, or by selecting “Part 1800: General” on the Rural Development Instruction website located at <https://www.rd.usda.gov/resources/directives/instructions>. The fee is subject to change to maintain a subsidy neutral program required by Public Law 111-212.

### **A. Calculation of Upfront Loan Guarantee Fee**

The maximum loan amount for a guaranteed loan is 100% of the appraised value plus the upfront guarantee fee. Eligible closing costs may be included in the loan amount up to 100% of the appraised value. Additional guidance on eligible closing costs is available in Chapter 6 of this Handbook.

An up-front fee calculator is available for use by lenders and employees at <https://www.rd.usda.gov/resources/usda-linc-training-resource-library>. Refer to Chapter 6 of this Handbook for assistance in determining the maximum loan amount allowed for refinance transactions.

There are three options for payment of the upfront guarantee fee. The following examples assume a 1% upfront fee.

**Pay the entire upfront guarantee fee at loan closing**

Borrowers are not required to finance the upfront guarantee fee and may elect to pay the entire fee at loan closing from personal funds, seller concessions, or eligible gift assistance at settlement.

Example: \$100,000 loan x 1% = \$1,000.00 upfront guarantee fee paid at loan closing.

**Finance part of the upfront guarantee fee**

The borrower may elect to finance a portion of the upfront guarantee fee. In these cases, the borrower will pay an upfront fee that corresponds to the total loan amount that includes a portion the upfront fee. The remaining amount of the upfront guarantee fee not financed, will be paid by the borrower from personal funds, seller concessions, or eligible gift assistance at settlement.

Example: \$500 of the 1% fee will be financed; therefore, the total loan amount will be \$100,500 loan x 1% = \$1,005.00 (guarantee fee)

In this scenario, the applicant will borrow \$100,500.00 which includes \$500.00 of the upfront guarantee fee. The borrower will pay the remaining \$505.00 of the guarantee fee from personal funds at settlement (\$1,005.00 total fee minus the \$500.00 financed = \$505.00).

**Finance the entire upfront guarantee fee**

The appraised value may only be exceeded by the amount of the upfront guarantee fee financed. Therefore, the entire upfront guarantee fee may be financed into the total loan.

Example: The appraised value of the subject property is \$100,000. The purchase price of the property is \$98,000. The borrower has elected to finance \$2,000 in eligible loan closing costs that does not include the upfront guarantee fee.

Begin with the base loan amount of \$100,000 (\$98,000 purchase price plus \$2,000 eligible closing costs). Calculate the total loan amount including the entire upfront guarantee fee being financed as follows:  $\$100,000 / .99 = \$101,010.10$  (total loan amount including the upfront guarantee fee)  $\$101,010.10 \times 1\% = \$1,010.10$  (upfront guarantee fee).

## **16.5 ANNUAL FEE**

The servicer will electronically pay the Agency the annual fee on all purchase and refinance transactions, which may be passed on to the borrower. The servicer responsible for payment is required to enter into a User Agreement to electronically receive billing notifications and submit payments. The annual guarantee fee amount published in Exhibit K of RD Instruction 440.1, available in any Rural Development office or by selecting “Part 1800: General” on the Rural Development Instructions website located at <https://www.rd.usda.gov/resources/directives/instructions>. The fee is subject to change to maintain a subsidy neutral program required by Public Law 111-212.

Information for gaining access to the Agency’s Guaranteed Annual Fee (GAF) system can be found at <https://www.rd.usda.gov/resources/usda-linc-training-resource-library>.

### **A. Amount of Annual Fee**

The servicer will pay an annual fee to the Agency which is calculated on the average scheduled unpaid principal balance of the mortgage.

### **B. Calculation of Annual Fee**

The amount of the annual fee is calculated from the original amortization schedule of the mortgage at loan closing. The annual fee does not include delinquent payments, prepayments, agreements to postpone payments, or loan modifications to the original mortgage.

### **C. Due Date of Annual Fee**

The annual fee is due and payable to the Agency on the 1<sup>st</sup> day of the billing month with a grace period for payments credited through the 15<sup>th</sup> day of the billing month. Electronic payments submitted on a business day prior to 7:00 p.m. Central Time will be credited the next business day. Electronic payments after 7:00 p.m. Central Time, or on a non-business day, will credit two business days later.

### **D. Payment of Annual Fee**

The servicer is responsible for the payment of the annual fee to the Agency.

**E. Advance Notice, Billing, and Reconciliation of the Annual Fee**

Servicers will receive advance notice, two months prior to the current annual fee due date, documenting the annual fee amount due in the subsequent year to allow the servicer to adjust a borrower's escrow collection to accommodate the next scheduled billing period. Advance notices are generated on the first business day of the month.

The annual fee billing file will be available to the servicer on the anniversary closing month of the loan each year. Payment of any annual fee billed is due to the Agency on the 1<sup>st</sup> day of the month following the anniversary date of loan settlement.

The billing file will outline the current annual fee amount due, all past due annual fee amounts, and all late charge amounts due for each individual loan in the servicer's portfolio that are subject to an annual fee.

**F. Late Charge on Unpaid Annual Fee**

Payments received by the Agency after the payment dates prescribed in this section and supported by §3555.107(h) of 7 CFR 3555 shall include a late charge of four percent of the unpaid fee amount.

In addition to the initial late charge provided, the lender may be assessed an additional late charge on any annual fee remaining unpaid after the last day of the month in which payment was due. This additional late charge will be one percent of the unpaid annual fee amount. Annual fee late charges cannot be passed on to the borrower.

**G. Period Covered by Annual Fee**

The initial annual fee shall cover the period effective with the first day of the calendar month following the settlement date and ending on the last day of the settlement anniversary month. Subsequent annual fee payments shall cover the twelve-month period preceding each subsequent anniversary date.

**H. Duration of Annual Fee**

The servicer shall pay the annual fee to the Agency until termination of the Loan Note Guarantee. Termination may be any of the following:

- When the mortgage reaches maturity;



#### Paragraph 16.5 Annual Fee

- At prepayment. The borrower paid the mortgage in full prior to the maturity date or by an approved short payoff;
- Foreclosure. The property was acquired by a lender or third party at a foreclosure sale; or
- Voluntary conveyance. The property was conveyed to the lender through an approved deed-in-lieu of foreclosure agreement.

A termination event must be reported to the Agency within 15 days of occurrence.

#### **I. Pro Rata Payment of the Annual Fee**

If the Loan Note Guarantee is terminated prior to the due date of the annual fee due, the servicer shall pay a prorated portion of the fee. The annual fee is prorated monthly beginning with the month proceeding the settlement date. The servicer must determine how many months of the scheduled annual fee period have elapsed at the time of termination. Regardless of what day of the month the loan is terminated, the entire month in which termination occurs will be included in the prorated calculation.

If the Loan Note Guarantee is terminated after the due date of the annual fee payment, the servicer shall pay a prorated portion of the annual fee. The calculation will be prorated from the due date of the last annual fee to the date of termination.

A pro rata annual fee will also be due and payable after a foreclosure is complete. The lender shall pay a portion of the annual fee prorated from the due date of the last annual fee to the date of settlement.

#### **J. Method of Payment of the Annual Fee**

Payment of the annual fee will be remitted electronically. Implementation and technical guides to explain electronic payment of the annual fee may be found on the USDA LINC website, located at <https://usdalinc.sc.egov.usda.gov/RHShome.do>.

#### **K. Nonpayment of the Annual Fee**

If for any reason the servicer fails to pay the scheduled annual fee payment, submitted loss claims may be reduced by the cumulative amount of unpaid annual fees, late fees, and/or additional late charges due to the Agency.

Servicers are subject to termination of their eligibility to participate in the SFHGLP due to nonpayment of the annual fee in accordance with §3555.52(c)(1) of 7 CFR 3555 and Chapter 3 of this Handbook.

## **16.6 TECHNOLOGY FEE**

Lenders will pay the Agency a technology fee, which may be passed to the borrower as an authorized loan purpose, when the request for loan guarantee is submitted via the Agency's Guaranteed Underwriting System (GUS). The fee can be included in the loan amount, subject to maximum loan-to-value thresholds. The technology fee will be collected through the Agency's LLC system interface with Pay.gov when the lender submits the loan closing package.

### **A. Amount of Technology Fee**

The Agency will notify all lenders via the Agency website and GovDelivery notifications of the required technology fee amount. The technology fee is nonrefundable once the loan is closed and the Loan Note Guarantee has been issued. Failure to pay the technology fee at the time of closing will result in denial of the Loan Note Guarantee request.

### **B. CFPB Forms: Loan Estimate and Closing Disclosure**

When the technology fee is passed on to the consumer, it will be disclosed on the *Loan Estimate* and *Closing Disclosure* as "Services You Cannot Shop For/Services Borrowers Did Not Shop For" in accordance with 12 CFR 1026.37(f)(2) and 1026.38(f)(2).

These items should be titled as "USDA Technology Fee" on both disclosures, when applicable.

## **16.7 AGENCY REVIEW OF CLOSING DOCUMENTS AND ISSUANCE OF THE GUARANTEE**

The Agency will review the required loan closing documents to ensure the lender has completed and fulfilled all requirements specified on the Conditional Commitment.

### **A. Incomplete Closing Documents**

If the Agency determines that the closing documentation is incomplete or has correctable errors, the lender should be granted up to 30 days to correct the situation. The lender will be notified of incomplete packages by telephone, in writing, by e-mail, or, if necessary, by regular mail. Agency staff should make every effort to contact the lender and determine the time required to provide the necessary documentation.

While the burden of submitting a complete loan closing package is on the lender, Agency staff should be cognizant that the lender cannot satisfy investor requirements without possession of the Agency's Loan Note Guarantee. If the loan package is not complete within 30 days, and the account is in default, the Agency will not issue a Loan Note Guarantee. The Agency will return the loan closing package if corrections cannot be made within 30 days.

## **B. Acceptable Closing Documents**

### **Lenders:**

- Submit their upfront guarantee fee and technology fee electronically through the Pay.gov interface with LLC;
- Submit all required documentation through the LLC system; and
- Retrieve and print the Loan Note Guarantee within the LLC system.

### **Agency Staff:**

- Will review and determine if the closing documents are acceptable and issue the Loan Note Guarantee within 10 business days of receipt of the closing package;
- Enter loan closing information into the Guaranteed Loan System (GLS);
- Provide Form RD 3555-17 or Form RD 3555-17E, *Loan Note Guarantee* and the *Loan Amortization Schedule* to the lender; and
- Retain a copy of Form RD 3555-17 or Form RD 3555-17E for the Agency's Electronic Customer File (ECF).

NOTE: The Loan Note Guarantee does not take effect until Form RD 3555-17 or Form RD 3555-17E is issued.

## **C. Unacceptable Closing Documents**

The Agency will not issue the Loan Note Guarantee if there are errors in the closing documents, the loan does not meet all program requirements, does not meet all conditions set forth on the Conditional Commitment, or if the applicant receives cash back at closing in excess of the amount the borrower paid out of pocket for costs such as a deposit, earnest money, an appraisal, or other allowable items that may be financed with the loan being guaranteed.

Loan funds and/or seller paid concessions may not be disbursed to the applicant(s). Lenders can correct oversights and unauthorized use of loan funds. If the lender can make the necessary corrections, the Agency will ensure the loan meets regulatory requirements prior to issuance of the Loan Note Guarantee.

Frequently asked questions regarding corrections after the loan has closed can be found in Attachment 16-B.

If the Agency determines the Loan Note Guarantee cannot be issued, the Agency will notify the lender of the reasons and provide review and appeal rights as described in Appendix 3 of this Handbook. Guaranteed loan funds will not be de-obligated until all appeal rights have expired, even if the process continues across fiscal years. If the Agency is upheld on appeal, Agency staff will de-obligate the funds in GLS. If the Agency's decision to deny the request is overturned, the approval official will immediately take the necessary steps to issue the Loan Note Guarantee.

## **16.8 CLOSING DATE**

The date of closing will be defined as the closing date listed on the Closing Disclosure and entered on the GLS "Add/Update Loan Closing" screen.

Borrowers may elect an interest credit settlement, where interest will be paid at closing to the previous first day of the month. The maturity date for this type of settlement will be slightly less than 30 years. Example: Borrower closes loan on October 3, 2019. For most loan closing settlements, interest would be paid from the settlement date to the beginning of the next month, November 1, 2019. The first payment would be due December 1, 2019. The maturity date would be November 1, 2049. Should the borrower elect an interest credit settlement, fewer funds are required at closing. Interest would be paid to the previous first day of the month, October 1, 2019. The first payment would begin November 1, 2019, and the maturity date would be October 1, 2049, in this example.

## **16.9 DUPLICATE LOAN NOTE GUARANTEE**

Lenders can retrieve a reissued Loan Note Guarantee from the LLC system. Occasionally a lender may request a certified copy or a duplicate original of Form RD 3555-17 or Form RD 3555-17E, *Loan Note Guarantee*. Many investors accept a certified copy, or scanned copy, while others require a duplicate original. A lender's request for a certified copy, scanned copy, or duplicate original of Form RD 3555-17 or Form RD 3555-17E will be honored.

## **16.10 TRANSFERRING LOANS AND/OR SERVICING RIGHTS**

Lenders may transfer guaranteed loans to other USDA approved lenders by following the requirements described in Chapter 4 of this Handbook.

## **16.11 ACCEPTABLE LIEN POSITION**

The guaranteed loan must have first lien position at closing; however, the lender may permit liens junior to the guaranteed loan if:

- The lien will not interfere with repayment of the loan and has been considered in the underwriting process;
- The total value of all liens on the property is less than or equal to the property's market value, except when a "soft-second" for down payment and/or closing cost assistance creates the overage; and
- The junior lien is for an authorized loan purpose.

## **16.12 OWNERSHIP REQUIREMENTS**

### **A. Lender and Agency Responsibilities**

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 of recording, and ensure that the loan closing instructions have been followed. The Agency does not set policy for survey requirements; however, it is the lender's responsibility to ensure that ownership interest that protects the security property has been obtained after the loan is closed. If the borrower defaults on the loan, the lender must be able to foreclose on the property to settle the debt. If the lender failed to obtain all required security, the originating lender may be subject to indemnification if a loss claim request is made to reflect the lender's failure to meet the lien requirements.

### **B. Acceptable Forms of Ownership**

The two forms of ownership acceptable to the Agency are fee-simple and secure leasehold.

#### ***1. Fee-Simple Ownership***

Acceptable fee-simple ownership is evidenced by a fully marketable title with a deed vesting a fee-simple interest in the property to the borrower.

## ***2. Secure Leasehold Interest***

Although fee-simple ownership is preferable, the borrower may have a secure leasehold interest in the property. Leasehold interests are acceptable when all the following conditions are met:

- The applicant must be unable to obtain fee-simple title to the property;
- The rent charged for the lease must not exceed the rate paid for comparable leases; and
- The appraisal documents these conditions.

The lessor must own the fee-simple title. This provision does not apply to a lessor who is a Native American possessing a leasehold interest on restricted land. Trust or restricted land must remain in trust or restricted status. In these cases, the mortgage, deed of trust, leasehold interest, or other security interest must be approved by the Secretary of the Interior. For those loans to Native Americans on restricted or trust land, the lender must obtain:

- Evidence that the tribe has enacted legally binding and effective foreclosure procedures and will enforce those procedures upon notice of default from a lender.
- Evidence that the tribe has enacted legally binding and effective 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 (excepting 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.
- The lender will adhere to the tribe's mortgage, foreclosure and eviction ordinances and the terms of the lease and the lender can only sell the leasehold

interest to the tribe, the tribally designated housing entity, or another tribal member. The lender and RD staff should consult with the tribe to ensure they adhere to the tribe's ordinances, the terms of the lease, and may exercise flexibility as directed by the tribe. The Agency's Native American Coordinators should also be contacted for additional assistance.

For all other leasehold interest:

- Leasehold estates are an accepted practice and readily marketable in the area where the subject property is located.
- Neither the leasehold nor the fee-simple title may be subject to a prior lien unless the Agency authorizes acceptance of the prior lien before loan approval.
- The lease must be in writing, recorded, and contain all the following provisions:
  - The lessor's consent to allow the lender's mortgage.
  - The right of the lender to foreclose and sell the property without restrictions that adversely affect the market value of the property.
  - The right of the lender to bid at a foreclosure sale or to accept voluntary conveyance of the property in lieu of foreclosure.
  - The right of the lender to occupy, sublet, or sell the property should the leasehold be acquired through foreclosure, voluntary conveyance, or abandonment.
  - The right of the borrower to transfer the leasehold and lender mortgage to an eligible transferee who will assume the lender's debt if the borrower defaults or is unable to continue with the lease.
  - A negotiated agreement with the lessor before the leasehold interest is approved regarding the lender's obligation to satisfy unpaid rent or other charges accrued before or during the time the lender has possession of or title to the leasehold. During negotiations, the lender should consider the length of time it will take to foreclose, how much the Agency would be responsible for, and when the lender would have to pay.
  - Fair compensation to the borrower for any part of the property taken by condemnation.

- The unexpired term of the lease must be at least 150 percent of the term of the mortgage.
- The language regarding amendments to mortgages with leasehold interests, specified in Attachment 16-A of this Chapter, must be inserted in the mortgage.

## **C. Insurance Policy Requirements**

### **1. Hazard Insurance**

Until loans are paid in full, lenders must ensure that borrowers continuously maintain hazard insurance on the collateral to protect against fire and weather-related damage. A hazard insurance policy must be in force at the time the loan is closed. A policy must document if the dwelling is on a leasehold to ensure state laws regarding insurance requirements are met.

Lenders should adopt accepted industry standards for hazard insurance as noted below:

- Hazard insurance providers should have ratings in accordance with the most recent Government Sponsored Enterprise (GSE) requirements.
- Hazard insurance policies should conform to the GSE coverage requirements of “the standard extended coverage endorsement,” which states that a policy cannot be accepted that in whole or part excludes wind, hurricane, or catastrophe insurance unless the coverage is provided in another policy with the same coverage limits as the hazard policy.

Properties should have replacement cost coverage in an amount that is at least equal to the guaranteed value of the improvements or the unpaid principal balance. Deductible(s) should not exceed 5% of the total coverage amount.

When using a high deductible, lenders must be mindful of the applicant’s repayment ability and ensure that chosen deductibles are reasonable for the applicant and will not cause undue hardship on the borrower.



## **2. Flood Insurance**

If a dwelling is in a Special Flood Hazard Area (SFHA) as identified by the FEMA, the property must be located within a National Flood Insurance Program (NFIP) participating community and the borrower must obtain flood insurance. The lender must ensure the borrower continuously maintains flood insurance for the life of the loan and that the policy is in force at the time of loan closing.

Flood insurance must cover the lesser of the outstanding principal balance of the loan or the maximum amount of coverage allowed under NFIP. Unless a higher amount is allowed by state or federal law (which includes FEMA policies), the maximum deductible clause for a flood insurance policy should not exceed \$10,000. Existing dwellings are eligible for the SFHGLP if flood insurance is available.

When using a high deductible, lenders must be mindful of the applicant's repayment ability and ensure that chosen deductibles are reasonable for the applicant and will not cause undue hardship on the borrower.

## **ATTACHMENT 16-A**

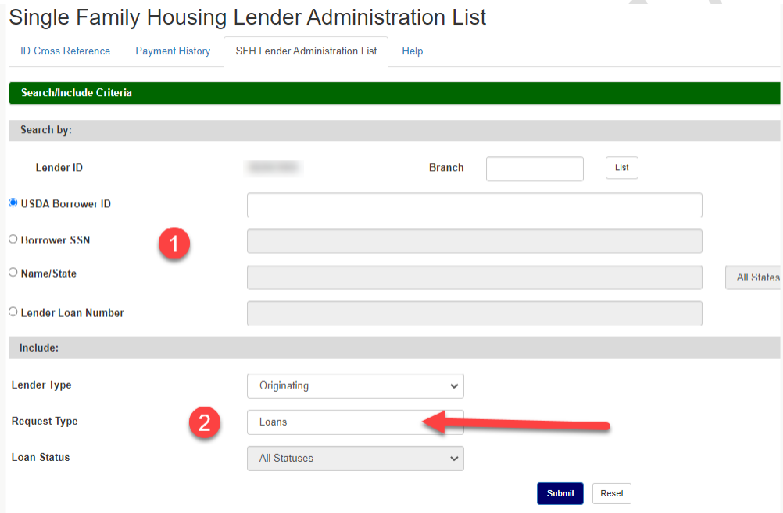
### **AMENDMENTS TO MORTGAGES WITH LEASEHOLD INTEREST**

The following paragraphs must be inserted in the mortgage. The first paragraph should be placed directly before the legal description of the real estate.

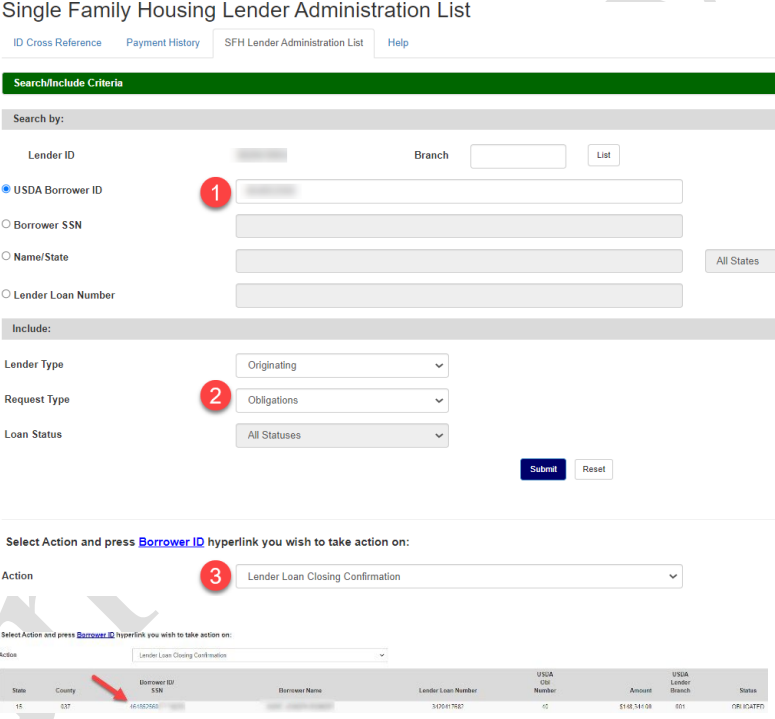
“All borrower’s right, title, and interest in and to the leasehold estate for a term of \_\_\_\_\_ years beginning on \_\_\_\_\_, 20\_\_\_\_, created, executed and established by certain Lease dated \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, Page \_\_\_\_\_ of \_\_\_\_\_ Records of said County and State, and any renewals and extensions thereof, and all borrower’s right, title, and interest in and to said Lease, covering the following real estate.”

“Borrower will pay, when due, all rents and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish any of borrower’s right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.”

## Guaranteed Rural Housing Loan Closing Reference Guide

Question	Answer
I am trying to access the Loan Note Guarantee from the Single-Family Housing Lender Administration List page in the LLC system, but nothing is coming up when I search for the Borrower/Loan.	<p>Verify you are using the correct Borrower ID number (default choice), Borrower SSN, Name/State, or Lender Loan Number and are selecting “Loans” for the “Request Type.”</p> 
Where can I find instructions for submitting the lender loan closing?	<p>The “Lender Loan Closing (LLC) Guide” is available in the LINC Training and Resource Library, in the “Loan Closing” section. The LINC Training and Resources Library is located at <a href="https://www.rd.usda.gov/resources/usda-linc-training-resource-library">https://www.rd.usda.gov/resources/usda-linc-training-resource-library</a>.</p>
How do I change the LLC roles of my associates? How do I modify or delete Security Administrators?	<p>The “SFHGLP System Access and Security Guide” is available in the LINC Training and Resource Library, in the “Guaranteed Underwriting System” section, which includes step by step instructions to add, modify, or delete existing users. The LINC Training and Resources Library is located at <a href="https://www.rd.usda.gov/resources/usda-linc-training-resource-library">https://www.rd.usda.gov/resources/usda-linc-training-resource-library</a>.</p>
It has been over 30 days since the loan closed, but we forgot to submit the loan closing package. Is it too late to request a Loan Note Guarantee?	<p>No. Rural Development will continue to accept complete loan closing submissions to assist the lender in obtaining a Loan Note Guarantee. Requests received more than 30 days after loan closing must include a loan payment history verifying the loan is current, as well as certification that all required escrow accounts are current and neither the lender nor another interested party provided funds to bring and/or keep the mortgage current to obtain the Loan Note Guarantee. A Loan Note Guarantee will not be issued beyond 30 days of the loan closing if the account is in default at the time of the Loan Note Guarantee request.</p>

Question	Answer																		
I did not receive the email with a link to the Loan Note Guarantee. Can you resend it to me?	<p>The Loan Note Guarantee can be accessed by the lender anytime once it is issued by USDA. Lenders can retrieve a copy from GUS by accessing the Application Documents Page. The Loan Note Guarantee is also available via the LLC System by following these steps:</p> <ul style="list-style-type: none"><li>• Enter the correct Borrower ID number (default choice), Borrower SSN, Name/State, or Lender Loan Number.</li><li>• Select “Loans” for the “Request Type.”</li><li>• Select “Display Documents” from the Action drop-down menu. The status of the loan will be set to “closed.”</li><li>• Select the Borrower ID hyperlink.</li></ul> <p>Single Family Housing Lender Administration List</p> <p><a href="#">ID Cross Reference</a> <a href="#">Payment History</a> <a href="#">SFH Lender Administration List</a> <a href="#">Help</a></p> <p><b>Search/Include Criteria</b></p> <p>Search by:</p> <p>Lender ID <input type="text"/> Branch <input type="text"/> <a href="#">List</a></p> <p><input checked="" type="radio"/> USDA Borrower ID <input type="text"/></p> <p><input type="radio"/> Borrower SSN <input type="text"/></p> <p><input type="radio"/> Name/State <input type="text"/> <a href="#">All States</a></p> <p><input type="radio"/> Lender Loan Number <input type="text"/></p> <p><b>Include:</b></p> <p>Lender Type <input type="text" value="Originating"/></p> <p>Request Type <input type="text" value="Loans"/></p> <p>Loan Status <input type="text" value="All Statuses"/></p> <p><a href="#">Submit</a> <a href="#">Reset</a></p> <p>Select Action and press <a href="#">Borrower ID</a> hyperlink you wish to take action on:</p> <p>Action <input type="text" value="Select"/></p> <p>Select Action and press <a href="#">Borrower ID</a> hyperlink you wish to take action on:</p> <p>Action <input type="text" value="Display Documents"/></p> <table><thead><tr><th>State</th><th>County</th><th>Borrower ID</th><th>Business Name</th><th>Lender Loan Number</th><th>USDA Loan Number</th><th>Amount</th><th>USDA Lender Branch</th><th>Status</th></tr></thead><tbody><tr><td>IN</td><td>IND</td><td><a href="#">317048647</a></td><td></td><td></td><td>10</td><td>\$128,000.00</td><td>402</td><td><span>Closed</span></td></tr></tbody></table>	State	County	Borrower ID	Business Name	Lender Loan Number	USDA Loan Number	Amount	USDA Lender Branch	Status	IN	IND	<a href="#">317048647</a>			10	\$128,000.00	402	<span>Closed</span>
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I think I submitted the loan closing, but I am unsure how to confirm. Can you check for me?	<p>The easiest way to check on a submitted loan closing is to log into GLS and check the “Add/Update Loan Closing” screen. Scroll towards the bottom to see if the upfront fee payment information is completed/accepted. For searches completed on the same day the lender submitted the LLC, the payment will reflect “pending” until the next day. The Loan Note Guarantee cannot be issued by USDA until the payment status changes to “settled.”</p> <table><thead><tr><th>Fee Type</th><th>Payment Status</th><th>Payment Amount</th><th>Date Submitted</th><th>Settlement Date</th><th>Confirmation</th></tr></thead><tbody><tr><td>Upfront Guarantee Fee</td><td>PFTT (FD)</td><td>\$1,483.44</td><td>04/08/2015</td><td>04/30/2015</td><td>76041PC043</td></tr></tbody></table>	Fee Type	Payment Status	Payment Amount	Date Submitted	Settlement Date	Confirmation	Upfront Guarantee Fee	PFTT (FD)	\$1,483.44	04/08/2015	04/30/2015	76041PC043						
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Question	Answer
I submitted the loan closing, but I did not receive the loan closing confirmation screen. Our company requires us to print this for our files. Is there a way to obtain this?	<p>Lenders may obtain a copy of this confirmation by going to the Single Family Housing Lender Administration List page in the LLC system. Enter the Borrower ID and ensure the “Request Type” is set to “Obligations.” When the correct Borrower has been identified, select the “Action” as “Lender Loan Closing Confirmation” and click on the Borrower ID hyperlink.</p> 
Unauthorized loan funds were released to the borrower at closing. How can we correct this?	<p>Lenders have two possible solutions:</p> <ol style="list-style-type: none"> <li>1. The lender may apply the amount of the unauthorized loan funds to the principal loan balance. Documentation of the amount applied must be submitted to USDA.</li> <li>2. Loan fees paid by the applicant(s) with credit cards or other short-term loans may not be reimbursed at closing. If the lender is required to reimburse an applicant as the result of erroneous preparation of the Loan Estimate, funds may be provided directly to the applicant since it represents a penalty due from the lender.</li> </ol>

Question	Answer
The loan has closed for a higher loan amount and/or interest rate than what was authorized on the Conditional Commitment. The Loan Note Guarantee has not been issued, what can I do?	The lender may perform a loan modification to rectify the loan amount and/or interest rate to match the issued Conditional Commitment. If that is not an option, the lender must request USDA to release the GUS loan back for correction. Once the loan amount and/or interest rate has been corrected, a new underwriting submission may be performed, and USDA will issue a new Conditional Commitment. Agency staff will follow the loan closing reversal guidance found on the SFHGLP SharePoint site when processing these requests.
I have received the Loan Note Guarantee, but our quality control/investor/etc. will not accept the loan until X is corrected. Can you please release the file back to me for correction of GUS?	<p>No. Once USDA has issued a Loan Note Guarantee, GUS will not be released. Loan Note Guarantees will not be revoked. Once they are issued, they remain valid per §3555.108(a). The lender may submit a “Self-Report” to the Agency for review and response. A self-report must include:</p> <ul style="list-style-type: none"><li>• Borrower ID/GUS Application ID and last name to select the correct file;</li><li>• Description of the issue;</li><li>• Provide supporting documentation, if applicable; and</li><li>• Lender/Service contact information.</li></ul> <p>Submit this information via email to <a href="mailto:SFHGLD.QualityAssurance@usda.gov">SFHGLD.QualityAssurance@usda.gov</a>. Response time is dependent on the issue and number of submissions received by USDA. It is the responsibility of the lender to ensure their investor will accept responses from USDA for investor delivery.</p>

Question	Answer
I need to have GUS released for correction after an automated loan closing has been submitted but prior to issuance of the Loan Note Guarantee.	<p>Prior to de-obligation of funds, Agency employees must ensure that the fiscal year funds utilized for the loan were not prior year funds. If the funds are from the current year, Agency staff will follow the instructions on how to reverse an LLC transaction prior to the issuance of a Loan Note Guarantee found on the SFHGLP SharePoint site.</p> <p>Loans obligated with prior year funds cannot be released in GUS. Agency staff must follow the guidance in Chapter 14 of this Handbook to process restoration of prior fiscal year funds. The Loan must be submitted manually in order to be re-obligated.</p> <p>The upfront loan guarantee fee was paid when the lender submitted their previous loan closing. When the closing is deleted from GLS, the fee already paid does not get returned to the lender. Instead, it goes into a pending state until USDA recloses the loan in GLS. Agency staff will not ask the lender to resubmit the upfront Guarantee Fee.</p>