

CHAPTER 4 MORTGAGE AND NOTE FORMS

Section 1: General Instructions

4-1 MORTGAGE AND NOTE FORMS

The FHA will not provide mortgage and Note forms. The lender must develop or procure mortgage and Note forms which comply in form and substance with both this chapter and all applicable state and local requirements for a recordable and enforceable mortgage and an enforceable Note.

- A. This chapter does not supersede FHA regulations. It supersedes anything contained in other FHA administrative issuances, such as handbooks, notices or mortgagee letters, that prescribes the form and content of a mortgage or Note, and conflicts directly with these requirements. Some of the mortgage or Note language required or permitted by this chapter may result in a borrower granting broad rights to a lender, while the exercise of those rights is limited by FHA regulations or administrative issuances. These requirements do not supersede any such limitations on lenders, and a lender's rights under the mortgage and Note may be exercised only in a manner consistent with all relevant FHA requirements.

Lenders should not seek advance approval of forms from either FHA Headquarters or the HOCs. Lenders are responsible for determining that the mortgage and Note comply with this chapter. However, questions regarding the appropriate interpretation of this chapter may be directed to:

Assistant General Counsel for Single Family Mortgages
Department of Housing and Urban Development
451 7th Street, S.W., Room 9240
Washington, DC 20410

Any requests for changes to the requirements of this chapter should be directed to the same address. The FHA does not expect to grant case-by-case exceptions.

The term "mortgage" as used in this chapter, includes any form of security instrument commonly used in a jurisdiction in connection with loans secured by a one- to four-family residential property, such as a deed of trust or security deed. The term "Note" as used in this chapter includes any form of credit instrument commonly used in a jurisdiction to evidence such loans.

4-2 MODEL MORTGAGE AND NOTE FORMS

Model Mortgage and Note Forms for fixed-rate level-payment loans are explained in Sections 2 and 3 of this chapter. Permitted variation from the model language in the model forms is explained in those sections. Additional requirements for other loans and special circumstances are explained in Section 4 of this chapter.

4-3 FORMAT

A mortgage or Note may include the lender's business name and/or logotype on the top of the form. Although layout and format are within the discretion of lenders where not specified in this chapter, size and style of typeface or print should be similar to the mortgages and Notes approved by the Federal National Mortgage Association (Fannie Mae) and the Federal Home loan Mortgage Corporation (Freddie Mac). The Department recommends that form preparers include the last revision date on each form in order to clarify the versions being distributed.

4-4 STATE LAWS

This chapter and the instructions or footnotes for the model forms identify some specific adaptations of the model forms that are needed to comply with state laws. Other state laws may require adaptations. Lenders should consult instructions from Fannie Mae and Freddie Mac regarding forms preparation for guidance on meeting state law requirements. The validity and enforceability of the mortgage and Note will depend on compliance with state law even if such law is not reflected in this chapter. For this reason, FHA emphasizes the need for a lender to use mortgages and Notes that comply with state law.

4-5 HOCS HAVE AUTHORITY

HOCs have the authority to impose additional requirements regarding mortgage and Note provisions for consistency with state laws appropriate to their jurisdictions, and to advise lenders of any such requirements through a Circular Letter.

Section 2: Mortgage Provisions

4-6 MODEL MORTGAGE FORM

Lenders must use the Model Mortgage Form (Appendix II), and follow the instructions accompanying the Model Mortgage Form, with only such adaptation as may be necessary to conform to state or local requirements.

4-7 FANNIE MAE/FREDDIE MAC FORMS

In preparing its forms requirements, FHA has made heavy use of the approved Fannie Mae/Freddie Mac mortgage forms. The provisions that precede the numbered paragraphs in the Model Mortgage Form are to be the same as Fannie Mae/Freddie Mac mortgages, (except New York and Maine), with the addition of the FHA case number on the front page.

4-8 UNIFORM AND NON-UNIFORM COVENANTS

The numbered Paragraphs 1-16 in the Model Mortgage Form, (FHA "uniform covenants"), must be used verbatim rather than the Fannie Mae/Freddie Mac "uniform covenants," which contain some substantial differences from FHA policy. FHA must be consulted if the lender concludes that anything in these paragraphs does not meet state or local requirements, but the lender shall make no changes without prior FHA approval.

- B. Non-Uniform Covenants. On the Model Mortgage Form, Paragraph 18 ("Foreclosure Procedure") will need adaptation for each state as explained in the instructions to the model form. This section is intended to address foreclosure procedures only.
- C. Following Paragraph 18 ("Foreclosure Procedure") of the Model Mortgage Form, a lender shall insert additional numbered paragraphs required to adapt the mortgage for a particular state. The text of these paragraphs shall be the same as the text of the paragraphs following the foreclosure procedures paragraph of the most recent approved Fannie Mae/Freddie Mac mortgage form for the appropriate jurisdiction (except the paragraph entitled "Riders to this Security Instrument").

Section 3: Note Provisions

4-9 MODEL NOTE FORM

Lenders must use the Model Note Form (Appendix III), and the footnotes accompanying the form, with only such adaptation as may be necessary to conform to state or local requirements. Some required state variations are explained in the footnotes and in Section 4 of this chapter. A lender is permitted to use a multi-state Note form except where special state provisions may be required by state statutes, including the circumstances indicated in the footnotes to the Model Note Form.

4-10 NEGOTIABLE INSTRUMENT

The Note must be a negotiable instrument or, in the case of Adjustable Rate Notes, must meet all requirements for negotiability, except that interest rates will be determined by reference to an index. The Model Note Form is intended to be a negotiable instrument, but it has not been reviewed for compliance with all state laws, which could affect negotiability. The mortgage and Note must be separate documents.

Section 4: Other Requirements

4-11 SPECIAL CIRCUMSTANCES

As special situations arise, additional language may be required for a mortgage and/or Note. Mandatory requirements to be followed in special circumstances are set forth in this section. The following prescribed forms of mortgage rider and/or Note allonge are provided and must be used to modify the Model Mortgage or Note Form when applicable:

- Graduated Payment Rider (Appendix V)
- Graduated Payment Allonge Amending Note (Appendix VI)
- Growing Equity Allonge Amending Note (Appendix VII)
- Condominium Rider (Appendix VIII)
- Rehabilitation Loan Rider for (Appendix IX)
- Planned Unit Development Rider (Appendix X)
- Tax-Exempt Financing Rider (Appendix XI)
- Rider for Section 248 Mortgage (Appendix XII)

- Rider for Section 247 Mortgage (Appendix XIII)
- Non-Owner Occupancy Rider (Appendix XIV)
- Water Purification Equipment Rider (Appendix XV)
- Cooperative Rider (Appendix XVI)
- Construction Rider for Construction/Permanent Mortgage (Appendix XVII)

Whenever additional language is to be added to a model form but no rider or allonge is provided, the addition may be printed or typed in the body of the instrument, or incorporated through use of a rider, addendum or similar document.

- D. Graduated Payment Mortgage (GPM). For a GPM, the lender must use the Model Mortgage Form with the Graduated Payment Rider (Appendix V), and the Model Note Form with the Graduated Payment Allonge Amending Note (Appendix VI).

HISTORICAL REFERENCE ONLY

Growing Equity Mortgage (GEM). For a GEM, the lender must use the Model Note Form with the Growing Equity Allonge Amending Note (Appendix VII).

There is no prescribed Growing Equity rider for a GEM. The mortgage shall contain a payment schedule, consistent with the schedule set forth in the Growing Equity Allonge, if required by state law or as otherwise needed to ensure the enforceability and priority of the mortgage. Otherwise, the lender may include such a schedule as its option. Lenders may recite the provisions of the Note verbatim in a rider.

Rehabilitation Loans (Section 203(k)). If a Section 203(k) loan involves release from the Rehabilitation Escrow Account, the lender must use the Model Mortgage Form with the Rehabilitation Loan Rider (Appendix IX).

Condominiums. This chapter does not supersede the instructions in Handbook 4265.1 except:

1. The provisions in Paragraph 4-2 of the handbook shall not be added to the mortgage and Note;
2. The "Resolution of Inconsistency" in Paragraph 12-8a(10) of the handbook shall not be contained in the mortgage; and
3. The lender shall use the Model Mortgage Form with the Condominium Rider (Appendix VIII).

Cooperatives. The lender must use the Model Mortgage Form together with the Cooperative Rider (Appendix XVI) for mortgages insured under Section 203(n) of the National Housing Act. The property description in the Model Mortgage Form should be modified as needed to describe the property interest in a manner not inconsistent with Appendix XVI. The lender must determine whether the Model Mortgage Form and Appendix XVI will result in a first lien as required by 24 CFR 203.43c(e). If necessary to satisfy the requirement of that regulation, the lender shall require additional security documents such as a Uniform Commercial Code (UCC) security agreement and/or an assignment of the borrower's lease. If the Model Mortgage Form and/or Appendix XVI must be modified to establish the required first lien under applicable state law, the lender should contact the FHA at the address given in Paragraph 4-1B. This paragraph supersedes the mortgage form instructions in Handbook 4240.3, Paragraph 1-12.

Planned Unit Development (PUD). The lender must use the Model Mortgage Form with the Planned Unit Development Rider (Appendix X).

Tax-Exempt Financing. This rider does not apply to financing through qualified veterans mortgage bonds, or through other public or private mortgage bonds which are not qualified mortgage bonds.

Open-End Advances. Nothing in this chapter is applicable to open-end advances.

Home Equity Conversion Mortgage (Reverse Mortgage). Special instructions for mortgages and Notes to be used in the Home Equity Conversion Mortgage insurance program (Section 255 of the National Housing Act) are contained in HUD Handbook 4235.1.

Non-Owner Occupant. If the mortgage involves an exception to the requirement for owner occupancy as a principal residence, the lender must use the Model Mortgage Form with the Non-Owner Occupancy Rider (Appendix XIV).

Water Purification Equipment. If the mortgage is on property with individual water purification equipment permitted by 24 CFR 203.52, the lender must use the Model Mortgage Form with the Water Purification Equipment Rider (Appendix XV).

Combined Construction and Permanent Loan. When a single closing is used for an uninsured construction loan that will convert to an insured permanent loan upon completion of construction, the FHA does not prescribe the terms or form of the Construction Rider except that all special construction terms terminate when the construction loan converts to a permanent loan and to require that, after conversion to a permanent loan, only the permanent loan terms (using documents meeting the standard requirements) shall continue to be effective.

4-12 HYBRID ADJUSTABLE RATE MORTGAGES

FHA may insure hybrid Adjustable Rate Mortgages (ARMs) on single-family properties that have interest rates that are fixed for the first three years, five years, seven years or ten years of the mortgage term and adjusted annually thereafter. The 1- and 3-year ARMs allow a one percentage point annual interest rate adjustment after the initial fixed interest rate period and a five percentage point interest rate cap over the life of the loan. The 5-, 7- and 10-year ARMs allow a two percentage point annual interest rate adjustment after the initial fixed interest rate period and a six percentage point interest rate cap over the life of the loan.

Disclosure

Lenders must disclose, at the time of loan application, a written explanation of the features of an ARM consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act (TILA). A hypothetical monthly payment schedule that displays the maximum potential increases in monthly payments for the term of the ARM must be provided to the applicant. For example, a 7-year ARM payment schedule would show the maximum potential increases over the three years following the initial fixed interest rate period of 7 years. Note: Examples will differ depending on the caps, i.e., 1/5 vs. 2/6. The hypothetical payment schedules will illustrate the maximum increases over the shortest possible timeframe.

Underwriting

- An adjustable rate mortgage disclosure statement, signed by all borrowers, must accompany the loan application and must meet the criteria of the TILA
- The periodic MIP and any termination provisions will be based on the initial interest rate throughout the loan term, regardless of the annual interest rate adjustments to the loan
- The initial interest rate, the margin the date of the first adjustment to the interest rate and the frequency of adjustments must be specified in the mortgage documents.
- Any form of temporary interest rate buydown is prohibited.

- ARM maturities shall not exceed 30 years
- Where the LTV is 95 percent or greater on a 1-year ARM, the borrower must qualify for payments based on the initial rate plus one percentage point.
- Borrowers for 3-, 5-, 7-, and 10-year ARM loans are qualified at the initial rate.

Mortgage and Note

The model adjustable rate mortgage and note can be found in appendices II and IV, respectively. Mortgage lenders are to modify the model adjustable rate note form to accommodate the type of ARM being offered (i.e., the Change Date, the limits on the interest rate changes associated with the initial fixed rate period of the ARM and the lifetime caps). The ARM must be fully amortizing and contain amortization provisions that allow for periodic adjustments in the rate of interest charged.

Calculating Interest Rate Adjustments

Changes in the interest rate charged on an ARM must correspond to changes in the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, or equivalent, as provided by the Department of the Treasury and found on the Federal Reserve Statistical Release H.15, Selected Interest Rates website at: www.federalreserve.gov/releases. Each change in the mortgage interest rate must correspond to the upward or downward change in this index.

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To establish the adjusted interest rate, the lender must compare the initial contract interest rate to the sum of the current index figure and the mortgage margin (calculated interest rate). The adjusted interest rate will be the interest rate charged to the mortgagor, subject to the limitations of the annual and lifetime caps for the respective ARM type. The current index figure shall be the most recent index figure available 30 calendar days before the Change Date (effective date of an adjustment to the interest rate as shown in paragraph 5(A) of the model adjusted rate note form.)

The mortgagee and the borrower negotiate the initial interest rate and margin. The margin must be constant for the entire term of the mortgage. To calculate the annual adjustments to the initial interest rate:

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- Determine the current index. "Current Index" means the most recent Index figure available 30 days before the Change Date. The index used, based on the weekly average yield on United States Treasury securities adjusted to a constant maturity of one year, must be the one effective on the date thirty (30) calendar days before the Change Date. The Federal Reserve Board Statistical Release H.15 is published weekly on Monday, or, on Tuesday, if Monday is a Federal holiday. The index figure shown on that release is effective the day it is issued until such time a new H.15 index is published. The following are examples of the proper index figure to use when the 30th calendar day falls on:
 1. A Monday that is a business day. Use the index figure contained in the H.15 release issued that Monday, if the 30th calendar day prior to a Change Date and

¶ The mortgagee and the mortgagor shall agree upon the adjustable rate mortgage initial contract interest rate. Subsequent adjustments to this interest rate shall correspond to annual changes in the interest rate index, subject to the following conditions and limitations:¶

the issue date of an H.15 release both occur on the same day, i.e., they both occur on a Monday.

2. A Monday that is a Federal holiday. Use the index figure in the H.15 release issued the prior week if the 30th calendar day before the Change Date falls on a Monday that is a Federal holiday.
3. A day of the week other than Monday. Use the index figure in the H.15 release issued on the Monday of that week (or issued on Tuesday if that Monday is a Federal holiday).

For example, assume a December 1, 2003 Change Date. Thirty (30) calendar days before December 1 is Saturday, November 1. The correct index figure to use is the one contained in the H.15 release issued on Monday of that week, which is October 27.

- Determine the calculated interest rate. This is the current index plus the margin (the number of basis points identified as "margin" in paragraph 5(C) of the model adjustable rate note) rounded to the nearest 1/8th of one percentage point (0.125 percent). This will comply with Ginnie Mae's requirement that the mortgages placed into Ginnie Mae pools must be rounded to the nearest 1/8th of one percentage point at each Change Date.
- Compare the calculated interest rate (index plus margin, rounded to the nearest 1/8th of one percentage point) to the existing interest rate (rate in effect for the preceding 12 months) to determine the new adjusted interest rate. If the calculated interest rate is:
 1. Equal to the existing interest rate, the adjusted interest rate will be the same as the existing interest rate.
 2. Less than the existing interest rate:
 - a. For 1- and 3-year ARMS, if the calculated interest rate is less than one percentage point (100 basis points) higher or lower than the existing interest rate, the calculated interest rate will become the new adjusted interest rate.
 - b. For 5-, 7- and 10-year ARMS, if the calculated interest rate is less than two percentage points (200 basis points) higher or lower than the existing interest rate, the calculated interest rate will become the new adjusted interest rate.
 3. More than the existing interest rate:
 - a. For 1- and 3-year ARMS, if the new calculated interest rate is more than one percentage point (100 basis points) higher or lower than the existing interest rate, the adjusted interest rate will be limited to one percentage point higher or lower than the existing interest rate. Index changes in excess of one percentage point (100 basis points) may not be carried over for inclusion in an adjustment in a subsequent year.
 - b. For 5-, 7- and 10-year ARMS, if the calculated interest rate is more than two percentage points (200 basis points) higher or lower than the existing interest rate, the adjusted interest rate will be limited to two percentage points higher than the existing interest rate. Index changes in excess of two

percentage points (200 basis points) may not be carried over for inclusion in a subsequent year.

Adjustments in the interest rate over the entire term of the mortgage may not result in a change in either direction of more than five percentage points (500 basis points) from the initial contract interest rate for 1-, and 3-year ARMs or six percentage points (600 basis points) for 5-, 7- and 10-year ARMs.

- An adjusted interest rate becomes effective on the Change Date and thereafter will be deemed to be the existing interest rate. The new interest rate will remain in effect until the next Change Date. During the term of the mortgage, each adjustment will be effective on the same date of each succeeding year.

Computation of the Monthly Installment

When there is a new interest rate on the mortgage as a result of the above calculations, a new monthly payment must be determined. The monthly payment attributable to principal and interest will be calculated by determining the amount that is necessary to fully amortize the unpaid principal balance during the remaining term of the mortgage. For this purpose, the unpaid principal balance shall mean that which would be due on the Change Date if there has been no default in any payment, but reduced by the amount of any prepayments to principal. (Accordingly, the mortgagee must credit all eligible prepayments, but must not debit any delinquency.) Escrow requirements will then be added to principal and interest to arrive at the new monthly payment.

Since interest is payable on the first day of the month following the month in which it accrued, the borrower will begin to pay the new monthly payment 30 days after the Change Date, provided the borrower is given proper notice as required under the Annual Adjustment section.

All ARM adjustments affect interest percentages only; negative amortization is not permitted.

Annual Adjustment Notice

At least 25 days before any adjustment to a mortgagor's monthly payment may occur, the mortgagee must advise the mortgagor of the new mortgage interest rate, the amount of the new monthly payment, the current index and how the payment adjustment was calculated. There are two basic steps which the mortgagee must take each year with respect to the interest rate adjustment:

Step 1: Make the computation to adjust the interest rate and the monthly payments. The first adjustment to the interest rate will become effective on the day specified in paragraph 5A of the ARM Note (Change Date) and thereafter each adjustment will be effective on the same date of each succeeding year during the term of the mortgage. The new monthly payment is effective 30 days after the Change Date.

Step 2: At least 25 days before any adjustment to a mortgagor's monthly payment may occur, the mortgagee must advise the mortgagor of the new mortgage interest rate, the

amount of the new monthly payment, the current index, and how the payment adjustment was calculated.

The mortgagee's obligation to compute, adjust the interest rate if necessary, and give notice to the mortgagor on the prescribed dates, is not affected by delinquencies or foreclosures so long as the mortgage debt exists. It is the mortgagee's responsibility to see that its collection actions continually update the mortgage debt. Notice of any adjustment to the interest rate and monthly payment, increase or decrease, must be mailed to the mortgagor at least 25 days prior to the change in payment. If an existing mortgage provides for 30 days notice, that provision must be followed. Our rule concerning the timing of the annual notice of adjustment is consistent with Federal Home Loan Bank Board (FHLBB) regulations and policy.

The Adjustment Notice must contain (a) the date the Adjustment Notice is mailed, (b) the Change Date, (c) the existing interest rate, (d) the adjusted interest rate, (e) the current Index and publishing date, (f) the method of calculating the adjustment to the monthly payments, (g) the amount of the adjusted monthly payments, and (h) any other information which may be required by law from time to time. The Notice should contain other relevant information such as an explanation of why the adjusted interest rate is less than the calculated interest rate when the cap is reached.

It is recommended that the Notice be sent to the mortgagor by Certified Mail, Return Receipt Requested. However, a Notice addressed and mailed via first class mail to all property owners identified on the mortgagee's records shall be sufficient unless the mortgagor's whereabouts are known to be elsewhere. A Notice must be given each year, even if the existing interest rate does not change.

For HUD review purposes, lenders must keep evidence that timely notice has been given, and evidence of the annual adjustment computations retained for the mortgage term. A file copy of the suggested HUD annual adjustment notice will be sufficient to satisfy this requirement. However, should disputes arise as to timely notice or as to the annual adjustment computations, compliance with our suggested methods may not satisfy local legal interpretations of the mortgage provisions in determining whether the evidence was sufficient. Lenders should, therefore, be guided by the advice of counsel in matters concerning the type and duration of record retention.

The mortgagee's collection personnel should be alerted to the prospect of Notice not being received by the mortgagor, and should take appropriate remedial action when necessary. If the mortgagor's payments do not reflect the increase or decrease recited in the Notice, a follow-up call should be made to determine if the Notice was received. If it is determined that the Notice was not received, a duplicate should be mailed promptly.

Failure to Provide Timely Notice

If the mortgagee fails to provide notice for more than one year, an Adjusted Interest Rate must be determined for each omitted year because the calculations for each year affect the rate for subsequent years. The one and two percentage point limitations, and five and six percentage

point caps are applicable each year and must be taken into consideration in determining the new Interest Rate. The mortgagee's failure to provide Notice in advance of each Change Date results in penalties (to be found in the Note) to the mortgagee.

Although the new interest rate may increase, the mortgagee is prevented from collecting any increase in payments until such time the Notice has met the required 25 days advance notice requirement. If timely notice is not provided, the lender forfeits its right to collect the increased amount and the borrower is relieved from the obligation to pay the increased payment amount.

In the event that the new interest rate was to decline, the failure of the mortgagee to provide proper Notice would result in overpayments until the mortgage rate was properly adjusted. In such case, the mortgagee must refund the excess with interest, at an equal to the sum of the Margin and the Index in effect on the Change Date, from the date of the excess payment to the date of repayment. The borrower has the option of a cash refund or application of the excess to the unpaid principal balance of the mortgage, after application of the refund to any existing delinquency.

Failure to Provide Accurate Notice

If the mortgagee miscalculates the interest rate and/or the monthly payment, and the error(s) are reflected in the Notice, HUD takes the position that the errors need to be corrected. However, HUD takes no position as to whether an erroneous Notice would constitute a failure to provide notice under the terms of the mortgage contract. This is a legal matter subject to local law and court interpretation.

Sales, Assignments and Transfers of Servicing Among Mortgagees

It is the responsibility of the transferor (seller) to provide the transferee with complete servicing records reflecting total compliance with ARM disclosure and reporting requirements. Although HUD regulations require the transferee/assignee to assume all servicing obligations, it is not intended that a negligent ARM mortgagee-transferor be permitted to avoid its disclosure obligations. In the event that a failure of Notice or other error is discovered, it shall be the responsibility of the mortgagee-transferor who was holding the loan when the failure occurred, to reimburse the mortgagee currently holding the loan, where any burden of refund to the mortgagor is required.

Assumptions

Lenders should encourage sellers to disclose the terms of an existing ARM in any sales transaction; however, when an assumption takes place both the sellers and the lender should assume responsibility for notifying the purchaser (assumptor) about the terms and conditions of the ARM.

As soon as the lender becomes aware of an assumption and has the name of the purchaser, it should provide the purchaser with a copy of the original Disclosure Statement and an explanatory letter addressing the ARM obligations. Documented acknowledgement of the assumptor's receipt of this information is advisable.

For assumption transactions which require a creditworthiness review or in cases where a release from personal liability is requested and approved, the lender must prepare a new Disclosure Statement to ensure that the purchaser is aware of the ARM obligation. Processing of the HUD-92210, Request for Credit Approval of Substitute Mortgagor, and/or HUD-92210.1, Approval of Purchaser and Release of Seller or other similar forms used by the lender, must be based on the interest rate in effect at the time the complete credit review package is submitted to the DE Underwriter.

Statistical Information

To track ARM activity, the following case number suffix codes (Section of the Act ADP Codes) will be indicated on all HUD application addendums (Form HUD-92900) and printed on computer generated mortgage insurance certificates (Form 59100). The suffix codes for DE cases are as follows:

Eligible Program	Section of the Act Suffix Code – Direct Endorsement
203(b)	729
223(e)	829
203(k) first lien	730
234(c)	731
247 – Hawaiian Homelands	780
248 – Indian Lands	788
203(k) – Condominium	815

Product Identifier

In addition to existing Automated Data Processing (ADP) codes assigned to ARMs, a hybrid ARM-type indicator has been added to FHA's Computerized Home Underwriting Management System (CHUMS). When submitting loan data to FHA via the FHA Connection or its functional equivalent, if an ARM is indicated by an ADP code, the lender must also identify the type of ARM by selecting the 1-, 3-, 5-, 7-, or 10-year ARM-type indicator. This process is less likely to result in errors than adding additional ADP codes for each individual hybrid ARM offering.

4-12 **SPECIAL REQUIREMENTS FOR PARTICULAR STATES AND LOCALITIES**

In addition to special requirements for particular states identified in the footnotes to Appendices II and III (Model Mortgage and Note Forms), and any special instructions issued by a HOC, the following special requirements are necessary.

- E. Northern Mariana Islands and American Samoa. The Model Mortgage Forms will not be applicable to the Commonwealth of the Northern Mariana Islands or American Samoa without further notice. A lender intending to seek mortgage insurance in those jurisdictions should contact the FHA for further instructions.
- F. Puerto Rico. Mortgages and Notes in Puerto Rico, and riders and allonges, shall be written in English and interlineated with Spanish in the same manner as the Fannie Mae/Freddie Mac forms for Puerto Rico. A Spanish translation of required language for the Model Mortgage Form and Model Note Form is available from the Atlanta HOC or the HUD Caribbean Field Office.
- G. Indian Reservations (Section 248). If the mortgage is insured under Section 248 of the National Housing Act on Indian land, the lender shall use the Model Mortgage Form with the Rider for Section 248 Mortgage (Appendix XII). If the Section 248 mortgage secures a construction loan, the lender must also use the Construction Loan Rider (Appendix XVI).
- H. Iowa, North Dakota and Wisconsin. Requirements concerning deficiency judgments are provided in the instructions to the Model Mortgage Form. Iowa, North Dakota and Wisconsin are excepted from those requirements because these states permit short-term redemption periods after foreclosure if lenders waive their rights to deficiency judgments. Since it may be in the Department's interest to have a short-term redemption period, the FHA requires that mortgages in these states shall contain the short-term redemption provisions set forth in the "Non-Uniform Covenants" of the current approved Fannie Mae/Freddie Mac mortgage forms, in Paragraph 24 for Iowa and 23 for North Dakota and Wisconsin. In addition, the North Dakota mortgage must include in the title the words "Short Term Mortgage Redemption" in boldface type.

South Dakota. The South Dakota mortgage must include in the title the words "One Hundred Eighty Day Redemption" in bold type, and immediately following Paragraph 18 the following must appear in bold type:

NOTICE- THE PARTIES AGREE THAT THE PROVISIONS OF THE ONE HUNDRED EIGHTY DAY REDEMPTION MORTGAGE ACT GOVERN THIS MORTGAGE.

After this notice, the following language should be included:

Borrower agrees that in the event of a foreclosure of this Security Instrument, by action the holder of the certificate of sale issued as a result of the foreclosure may apply to the appropriate court for a reduction of the redemption period if the mortgaged property has been abandoned by Borrower. Borrower agrees that if, after such notice to the parties as the court may direct, the court finds that the mortgaged property has been abandoned, then the redemption period may be reduced to a period of not less than 60 days from the date of

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For 1, 3 and 5-year ARMs, no single adjustment to the interest rate may result in a change in either direction of more than one percentage point from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of one percentage point may not be carried over for inclusion in an adjustment in a subsequent year. Adjustments in the interest over the entire term of the mortgage may not result in a change in either direction of more than five percentage points from the initial contract interest rate.¶

¶ For 7 and 10-year ARMs, no single adjustment to the interest rate shall result in a change in either direction of more than two percentage points from the interest rate in effect for the period immediately preceding that adjustment. Index changes in excess of two percentage points may not be carried over for inclusion in a subsequent year. Adjustments in the interest rate over the entire term of the mortgage may not result in a change in either direction of more than 6 percentage points from the initial contract rate.¶

¶ At each adjustment date, changes in the index interest rate, whether increases or decreases, must be translated into the adjusted mortgage interest rate, except that the mortgage may provide for minimum interest rate change limitations and for minimum increments of interest rate changes. ¶

recording of the certificate of sale issued as a result of the foreclosure of this Security Instrument.

New York and Maine. The New York and Maine Fannie Mae/Freddie Mac mortgage forms are written in a "plain English" style which sometimes uses "I" instead of "Borrower." When Non-Uniform Covenants from the New York and Maine Fannie Mae/Freddie Mac forms are added to the Model Mortgage Form, "I" should be changed to "Borrower," and any necessary conforming changes in verb form required by this change should also be made. The format and language for material preceding the Uniform Covenants should be based on Fannie Mae/Freddie Mac forms for other states, provided that the language is in conformity with applicable law.

New York. In New York, FHA permits a lender to modify and extend a previously recorded Security Instrument to secure new financing for the same property, instead of discharging the Security Instrument of record upon prepayment of existing financing. The borrower and lender must execute a new Note and either a HUD-approved Modification Agreement (for refinancing with no increase in principal amount) or a Consolidation, Extension and Modification Agreement (for other situations). Copies of these agreements are available from the HOCs. Fannie Mae/Freddie Mac Form 3172, "Consolidation, Extension and Modification Agreements," should not be used.

Pennsylvania. For Pennsylvania, "Certificate of Residence" is required at the end of the mortgage by 21 P.S. Sec. 625. It should read as follows:

CERTIFICATE OF RESIDENCE I, _____ do hereby certify that the correct address of the within-named lender is _____, witness my hand this _____ day of 20__.

Agent of Lender

Texas. For Texas, delete Fannie Mae/Freddie Mac Paragraph 26 entitled "Waiver of Notice of Intent to Accelerate," or if used, the paragraph should be adapted since the paragraph reference is incorrect and omits FHA notice language.

HISTORICAL REFERENCE ONLY

HISTORICAL REFERENCE ONLY