

CHAPTER 6. MORTGAGE

6-1. DETERMINATION OF MAXIMUM MORTGAGE.

a. Before Final Closing. On completion of the review of certificates of actual cost and acceptance thereof by the Field Office Director, FHA Form 2580, Maximum Insurable Mortgage, shall be executed by the Field Office Director for the purpose of indicating to the mortgagee and mortgagor whether or not a reduction in the original amount of the mortgage is necessary.

- (1) Upon execution of FHA Form 2580, the original shall be forwarded to the mortgagee and an executed copy shall be forwarded to the mortgagor.
- (2) One copy shall be placed in the field office docket and one copy in the Washington docket with copies of the cost certification exhibits.

b. After Final Closing:

- (1) Follow-up for Supplemental Certification. If at final closing, a supplemental certification is required for items "to be paid in cash within 45 days," an appropriate follow-up for obtaining the certification must be established. (This is in addition to the follow-up required by Paragraph 5-11.)
- (2) Review and Action re Supplemental Certification. Supplemental statements, certified by an accountant in the same manner as the original submissions, are required for any estimated amounts included under Paragraphs 5-11 and 5-12 for any items "to be paid in cash within 45 days," and shall be reviewed by the Director under the same conditions as followed in the review of FHA Form 2330.
 - (a) When this supplemental certification is received, the Director shall determine whether or not an adjustment in the mortgage amount is required. This is ascertained by substituting actual costs for the amounts estimated in the original certification of costs (before final closing) and computing a new maximum mortgage.

- (b) If this computation produces an amount less than the insured mortgage, the Field Office Director shall make demand upon the mortgagor for payment in accordance with the provisions of the "Agreement and Certification." Copies of this letter shall be forwarded to the mortgagee, and to the Director, Office of Loan Management for insertion in the Washington docket. A copy of this supplemental certification shall also be forwarded to the Director, Office of Loan Management for the Washington docket.

- (c) Any prepayment on the mortgage required as a result of this supplemental cost certification is to be considered mandatory. Instructions set forth in Paragraph 5-11 with respect to mandatory prepayments will also apply to this prepayment.

6-2. EXCESS MORTGAGE PROCEEDS. There is a remote possibility that the cash paid out for completion of a project may be less than the mortgage proceeds. In such circumstances, the Field Office Director shall require that any part of the mortgage proceeds which have not been expended to pay necessary costs of completing the project shall be deposited in a special account of the mortgagor, from which disbursements may be made only with the prior written consent of the Assistant Secretary-FHA Commissioner. This requirement is stated in paragraph (4) of the Agreement and Certification, FHA Form 3305. There will be no obligation to the investment of such funds in obligations of, or fully guaranteed as to principal by, the United States of America, or to their deposit in institutions whose accounts are insured by the United States. The establishment of the fund can be avoided by an immediate reduction of the mortgage at closing, before establishment of the amortization schedule.

- a. Any request received by the Field Office Director for use of the funds for purposes other than reduction of the mortgage will be forwarded with his comments and recommendations to the Director, Office of Loan Management. The Office of Loan Management will advise the Field Office Director whether the request may be granted.
- b. If the mortgage proceeds exceed the cash paid out for completion solely because there is a difference between the purchase price of land held for a period of years and its "fair market value in fee simple and as is", as determined by HUD-FHA, request may be made to the Director, Office of Loan Management for waiver of this requirement.

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- c. The request for waiver should be accompanied by full information as to the date of purchase and purchase price of the land and normally will be approved in situations such as the case of an individual mortgagor who obviously cannot "buy" the land from himself, as contrasted with a corporate mortgagor, which could buy land from its sole or majority stockholder.

6-3. MORTGAGOR'S INVESTMENT.

- a. The amount of the mortgagor's initial equity investment is to be determined as follows:
 - (1) New Construction: Line 6, FHA Form 2580 minus finally endorsed mortgage amount = equity.
 - (2) Rehabilitation-Property Owned: Line 4, FHA Form 2580 plus HUD-FHA estimate of "as is" value of the existing land and

improvements before rehabilitation, minus finally endorsed mortgage amount = equity.

(3) Rehabilitation-Property Acquired: Line 4, FHA Form 2580 plus the lesser of (1) FHA "as is" value of the existing land and improvements before rehabilitation or (2) acquisition cost of property minus finally endorsed mortgage amount = equity.

- b. To the base amount as determined by (1), (2), or (3) above, whichever is applicable, there may be added certain cash out lays for furnishings, equipment, or other betterments essential to the operation of the project. The nature and extent of such outlays shall be substantiated by a supporting schedule in a manner satisfactory to the Field Office Director. The schedule shall set forth the vendor's name, a description of the item or items purchased, the total price, and the cash paid on account of the price. The schedule shall be signed by an authorized representative of the mortgagor.
- c. Once the aforesaid determination has been made, the Field Office Director will immediately notify the mortgagor in writing as to the amount of the initial equity investments. A copy of such determination shall be attached to each copy of the FHA Form 2580.

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6-4. APPLICATION FOR INSURANCE OF ADVANCE OF MORTGAGE PROCEEDS. FHA Form 2403 is the same form used during the course of construction for the advance of mortgage proceeds. When the final advance is in order, the mortgagee, the mortgagor, the contractor, and the architect will execute the completed form, and the form will be submitted by the mortgagee in triplicate. The form shall be accompanied by: (1) a completed Contractor's Requisition, FHA Form 2448; (2) Contractor's Prevailing Wage Certificate, FHA Form 2403-A; and (3) a final survey.

- a. The survey accompanying this request must show the exact location of all buildings, water, sewer, gas and electric mains, and all easements for such existing utilities. It must be prepared by a licensed surveyor who must certify that the project is installed and erected entirely on the land covered by the insured mortgage and within the building restriction lines, if any, on said land, and does not overhang or encroach upon any easement or right-of-way of others.
- b. On receipt, all copies of the Form and attachments will be routed to the DO/CU, processed, and submitted to the Field Office Director. On ascertaining that the advance will be final advance of mortgage proceeds, the Field Office Director will determine whether:
 - (1) Any items of on-site construction are incomplete;
 - (2) Any off-site facilities are incomplete;
 - (3) Any revisions are required in connection with hazard insurance; and

- (4) The necessary chattel mortgage or certificate of mortgagee's attorney has been submitted (as required by Paragraphs 2-1 through 4-1) and the Field Office Director will be guided accordingly.

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- (6-4) c. If no items of on-site construction are incomplete, type into the Certificate of Mortgage Insurance on FHA Form 2403, in the space provided for the amount of the escrow deposit, the word "None". If items of on-site construction are incomplete and an escrow deposit (in accordance with paragraph 3-1) is in order, attach to FHA Form 2403 an itemized list of incomplete items; and type into the Certificate of Mortgage Insurance, in the space provided, the amount of the escrow deposit required for completion of incomplete items.
- d. Following execution of the Form, the Field Office Director will forward the executed original to the mortgagee, with necessary attachments listing incomplete items, if any. If the Form is in connection with the final advance of mortgage proceeds, at the time the Field Office Director returns the Form to the mortgagee, the mortgagee's attention must be called to the proviso in the "Certificate" section of the Form concerning the fact that this last advance shall not be considered insured until the occurrence of the events set forth in such proviso. An executed copy will be filed in the Washington docket, and one copy will be forwarded to the DO/CU for use of the Mortgage Credit Staff and eventual filing in the duplicate docket.
- e. In accordance with the Certificate of Mortgage Insurance, it is then the responsibility of the mortgagee to submit a completed Request for Final Endorsement of Credit Instrument, FHA Form 2023, with the credit instrument and any necessary escrow agreement. It is desirable, however, that the Field Office Director in forwarding the completed Form to the mortgagee, call to the mortgagee's attention such additional submissions as are required, and at the same time forward to the mortgagee copies of FHA Form 2023 and, if necessary, Escrow Deposit Agreement, FHA Form 2456.

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