

CHAPTER 7. FINAL ENDORSEMENT

7-1. REQUEST FOR FINAL ENDORSEMENT OF CREDIT INSTRUMENT, FHA FORM 2023.

After receipt by the mortgagee of approval of a final advance, FHA Form 2023 completed and executed by the mortgagor, mortgagee, and general contractor, must be submitted in duplicate, with the original credit instrument and, if required, three conformed copies of Escrow Deposit Agreement, FHA Form 2456.

- a. On receipt, FHA Form 2023 will be checked against each previously approved FHA Form 2403 to determine that the amount of each advance is correctly stated and that the total shown on the FHA Form 2023 equals the total of all advances. If any error is found, the form will be returned to the mortgagee with an explanation of the correction required. The inclusion of an amount advanced by the mortgagee to the mortgagor from escrow funds required for completion of the project is a common source of error, and it is important that such amounts be excluded from FHA Form 2023. When reviewing this form, the Field Office Director should examine the title evidence submitted prior to final closing to confirm the certification by the mortgagor as to items of outstanding indebtedness.
- b. Particular attention is directed to the required certifications by the mortgagor and the general contractor with respect to their obligations and the penalty provided by law for misstatements. FHA Form 2023, as revised, requires in every case a full disclosure by both the mortgagor and the general contractor of all outstanding unpaid obligations. In addition, in cases where, during the construction of the project, there is strong evidence of slow payment or nonpayment by the mortgagor or the general contractor, it is within the discretion of the Field Office Director to require that sufficient funds from the final advance of mortgage proceeds be placed in escrow with the mortgagee or with an escrow agent for disbursement to satisfy all unpaid obligations disclosed on FHA Form 2023 and attachments. Such funds are to be released from escrow only upon the mortgagee or escrow agent being furnished with simultaneous acknowledgement of payment by the general contractor and/or appropriate subcontractor or materialman. However, in all cases the Field Office Director shall proceed as follows:

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- (7-1) (1) Mortgagors shall be advised that all unpaid obligations contracted in connection with the acquisition of land, purchase of property, construction of the project, or the mortgage transaction shall without exception be reported on FHA Form 2023 as required by the Certificate of the Mortgagor. Likewise, General Contractors shall be advised that all unpaid obligations contracted in connection with the construction contract shall be reported on FHA Form 2023 as required by the Certificate of the General Contractor.

- (2) The unpaid obligations of the mortgagor listed under (b) and (c) of paragraph 2 of the Certificate of the Mortgagor on FHA Form 2023 shall not exceed the amount of the final advance of mortgage proceeds. In the event that a FHA Form is received showing such an excess, it shall be returned to the mortgagor with the advice that the differences must be liquidated by cash payment or through the issuance of stock or a promissory note. A corrected FHA Form 2023 must then be submitted. If a promissory note is used, it must be on the proper HUD-FHA prescribed note form and no change in substance shall be permitted. Two copies of all notes should be obtained for filing in the Field Office and Washington dockets.
- (3) In any case where the amount of the unpaid obligations certified by the general contractor exceeds the amount certified as due the general contractor by the mortgagor, the Field Office Director shall urge the prompt payment of such excess obligation. If there is an identity of interest between the mortgagor and the general contractor the Field Office Director shall immediately notify the mortgagor that final endorsement will be withheld until evidence is furnished that sufficient cash is available to pay all outstanding obligations in full.
- (4) When these forms are satisfactorily completed and submitted, it is in order to proceed with the final closing conference. The date of final endorsement will be the date the Field Office Director or his authorized agent affixes his signature to the credit instrument. The original of FHA Form 2023 will be filed in the Washington docket, the copy of FHA Form 2456 will also be filed in the Washington docket, and a conformed copy filed in the Field Office docket.

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Paragraph 3 of the Certificates of the Mortgagor and the General Contractor on FHA Form 2023 require the emission of receipts for the reported unpaid obligations within prescribed time limits.

- (a) If the receipts for reported unpaid obligations are not received by the deadline, it is the responsibility of the Field Office Director to immediately make appropriate inquiry in writing.
- (b) If the receipts for reported unpaid obligations are not received within two weeks from the date of such inquiry, the Field Office Director will report the matter to the Director, Office of Loan Management.

7-2. AMOUNT OF ENDORSEMENT. The credit instrument will be finally endorsed in an amount equal to the full amount of all insured advances to the mortgagor, as shown by the applicable FHA Form 2023, regardless of whether the final endorsement occurs before or after the commencement of amortization of the insured mortgage.

7-3. WORKING CAPITAL DEPOSIT. On final endorsement of the mortgage, the mortgage shall be entitled to release any balance of the working capital deposit to the mortgagor (but only to the mortgagor.) The Field Office Director is not required to approve or disapprove such action; but, if consulted, shall point out to the mortgagor and mortgagee that both should give careful consideration to the position of the mortgagor (percentage of occupancy, etc.,) and should point out, also that any release of such funds while a mortgage default exists will be the sole responsibility of the mortgage,.