

Form RD 3565-4  
(Rev. 6-99)  
7 CFR Part 3565

Position 5

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL HOUSING SERVICE  
LOAN NOTE GUARANTEE  
(Multifamily Housing)

Used to define the terms and conditions of the guaranteed loan amount.

State (1)	County (2)	Date of Note (3)
Borrower (7)	USDA Loan Identification Number (4)	
Lender (8)	Lender's IRS Tax ID Number (5)	
Lender's Address (8a)	Principal Amount of Loan \$ (6)	

The guaranteed portion of the loan is \$ (9) which is (10) (10a) %

percent of loan principal. The principal amount of loan is evidenced by (11) notes (includes bonds as appropriate) (Note) described below. The guaranteed portion of each Note is indicated below. This instrument is attached to Note

(12) in the face amount of \$ (12a) and is number (12b) of (12c)

Lender's Identifying Number	Face Amount \$	Percent of Total Face Amount %	Amount Guaranteed \$
(13)	(14)	(15)	(16)

TOTAL \$ (14a) 100% \$ (16a)

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the United States Department of Agriculture ("Government"), pursuant to title V of the Housing Act of 1949 (42 U.S.C. §1471 et seq.), does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to the Lender the lesser of paragraph 1 or 2 below:

1. Any loss sustained by such Lender (Loss) on the guaranteed portion of the Notes or any related assumption agreements including:
  - a. Principal and interest indebtedness, and
  - b. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with USDA's authorization, including, but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or
2. The guaranteed principal advanced to or assumed by the Borrower and any interest due thereon.

(see reverse)

PROCEDURE FOR PREPARATION : HB-1-3565.

PREPARED BY : Agency Approval Official.

NUMBER OF COPIES : Original and three copies.

SIGNATURES REQUIRED : Agency Approval Official.

DISTRIBUTION OF COPIES : Original(s) attached to the Lender's note(s) including unguaranteed note; copy(s) attached to Lender's copy(s) of the note(s); copy(s) attached to copy(s) of the Lender's note(s) and retained by State Director, copy(s) attached to Lender's note(s) and retained by National Office.

### GENERAL INSTRUCTIONS FOR PREPARATION

- (1) Insert name of state in which the guarantee is being processed.
- (2) Insert name of county in which guarantee is being processed.
- (3) Insert date of note.
- (4) Insert Loan Identification Number, (same as Borrower's case number).
- (5) Insert Lender's Internal Revenue Service tax identification number.
- (6) Insert principal amount of entire guaranteed loan.
- (7) Insert Borrower's name.
- (8) Insert Lender's name.
- (8a) Insert Lender's address.
- (9) Insert the amount in number six times the percent of guarantee and insert the result.
- (10) Insert the appropriate percent being guaranteed in words.
- (10a) Insert the appropriate percent being guaranteed in numerals.
- (11) Insert the appropriate number of notes to be issued by the Lender (include the unguaranteed note, if any) in accordance with the option the Lender selects for sale or assignments of the guaranteed loan.
- (12) Insert Lender's identification number assigned to the note to which this Loan Note Guarantee is attached.
- (12a) Insert the face amount of the note in numbers.
- (12b) Insert the consecutive number of instruments issued for this loan. The number must be in sequence and begin with number (1).
- (12c) Insert the total number of instruments issued on this loan.
- (13) Insert Lender's own identification numbers for each note issued. If lender does not assign such a number, use consecutive numbers, 1, 2, 3, 4, etc.
- (14) Insert face amount of each note Lender issues, including unguaranteed notes.
- (14a) Insert total of Item (14) above.
- (15) Insert percentage face amount Item (14) is of total face amount Item (14a).
- (16) Insert amount of face amount of Item (14) which is guaranteed.

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Loss includes only (a) principal and interest evidenced by the Note; (b) any loan subsidy due and owing; and (c) any principal and interest indebtedness on Government approved protective advances for protection and preservation of collateral. Interest (including any subsidy) shall be covered by this Loan Note Guarantee (Agreement) to the date of loss as defined in 7 C.F.R. part 3565, subpart J. Net proceeds received from liquidation of the collateral will be used in the amount of loss sustained by the Lender. If the Lender acquires the collateral, the net proceeds from collateral for calculating loss shall be determined by the Government as follows: (i) the collateral will be appraised at its current market value as of the date of acquisition by the Lender then (ii) deduct from such appraised value an estimate of liquidation costs which will include an allowance for the estimated time the property will be held by the Lender.

If the Government conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest after the date the Government accepts responsibility for the liquidation will not be covered by the Loan Note Guarantee.

Lender may sell the guaranteed loan only to a Lender which meets the qualifications and in the manner as provided in 7 C.F.R. part 3565. Such loan must not be in default at the time of the sale.

Lender may obtain participation in its loan under its procedures. Participation means a sale of an interest in the loan wherein the Lender retains the Note, collateral securing the Note, and all responsibility for all loan servicing and liquidation. A participant has no rights under this instrument.

CONDITIONS OF THE GUARANTEE

1. Loan Servicing

Lender will be responsible for servicing the entire loan and Lender will remain mortgagee or secured party of record. The Lender may sell the loan servicing rights to a Government approved Lender when the purchasing Lender agrees to be bound by all of the same terms as the selling Lender and this Agreement and the Regulatory Agreement.

2. Full Faith and Credit

This Agreement constitutes an obligation supported by full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it becomes such lender or which the Lender participates in or condones. A Note which provides for the payment of interest on interest shall not be guaranteed. If the Note to which this Agreement is attached or relates provides for the payment of interest on interest, then this Agreement is void. In addition, this Agreement will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which the Government acquires knowledge of the forgoing. Any losses occasioned will be unenforceable by the Lender to the extent that loan funds are used for purposes other than those approved by the Government. See Form RD 3565.2, "Conditional Commitment." Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own loan portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act, but also not acting in a timely manner or acting contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

3. As a condition of the guarantee, the Lender is to obtain borrower certification annually that the project is in compliance with the Regulatory Agreement and program requirements with respect to all aspects of project management.

4. The Lender must approve the Borrower's management plan and assure that the Borrower is in compliance with Government standards regarding property management, including the requirements set forth in 7 C.F.R. part 3565, subparts E and F.

5. Lender will receive all payments or principal and interest and any loan subsidy on the account of the entire loan.

6. Protective advances made by the Lender pursuant to Government regulations will be guaranteed against a percentage of the loss as provided in this Agreement.

7. This Agreement will terminate automatically (a) upon full payment of the guaranteed loan; or (b) upon full payment of any loss obligation hereunder; (c) upon return of the Loan Note Guarantee to the Government with a written request for termination of the guarantee; or (d) Lender's failure to pay the annual fee.

8. Any amount due under this Agreement will be determined and paid as provided in 7 C.F.R. part 3565 in effect on the date of this Agreement.

9. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

10. Construction Loans

When acceptable credit enhancements are provided, the Agency may guarantee construction advances of up to 90 percent of the work-in-place, or up to 90 percent of the amount advanced, whichever is less. The Lender will provide the Finance Office with status reports as the loan is advanced.

The Loan Note Guarantee will not convert to a permanent guarantee on the loan until the pro-forma underwriting and rent-up assumptions listed in this Agreement have been met for a period of 90 consecutive days, or an escrow has been established in an amount that will equal pro-forma rental income when combined with actual receipts from Project operations. Rental income may not be achieved through use of short-term leases or any type of rental concessions.

(16a) Insert total guaranteed amount which should equal Item (9).

EXAMPLE: Multi-note option with 3 notes issued @ 90% guarantee on the principal loan amount of \$1,000,000.

The guaranteed portion of the loan is \$900,000 which is ninety (90%) percent of loan principal. The principal amount of loan is evidenced by three note(s) (includes binds as appropriate) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note series A, # 101 in the face amount of \$450,000 and is number one of three.

LENDERS IDENTIFYING NUMBER	FACE AMOUNT	PERCENT OF FACE AMOUNT	AMOUNT GUARANTEED
Series A, # 101	\$ 450,000	45 %	\$ 450,000
Series A, # 102	450,000	45 %	450,000
Series A, # 103	100,000	10 %	none
<b>TOTAL</b>	<b>\$1,000,000</b>	<b>100 %</b>	<b>\$ 900,000</b>

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11. All notices and actions will be sent to the Government through (17) (Agency) for (18) (State) at the following mailing address:

(18a)

UNITED STATES OF AMERICA  
RURAL DEVELOPMENT

By: (19)

Title: (20)

Date: (21)

Assumption Agreement by: (22) Dated: (22)  
(Transferee)

Assumption Approved by the Agency (22) Dated: (22)  
(new note, if taken, is attached)

Assumption Agreement by: (22) Dated: (22)  
(Transferee)

Assumption Approved by the Agency (22) Dated: (22)  
(new note, if taken, is attached)

(17) Appropriate office responsible for the loan.

(18) Same as Item (1).

(18a) Insert address of office referred to in Item (17).

(19) Signed by Approval Official.

(20) Insert title.

(21) Insert date signed.

(22) Insert name of assuming party and effective date of assumption upon concurrence by applicable agency.