

CHAPTER 8: LOAN APPROVAL AND CLOSING

8.1 INTRODUCTION

Once the Loan Originator has completed all of the procedures described in Chapters 3 through 7 and has decided based on the qualifications of the applicant, the characteristics of the property, and the results of the underwriting analysis that the loan should be made, the case file is submitted to the Loan Approval Official for final review and approval. Section 1 of this chapter describes the procedures used to notify the applicant of the Loan Approval Official's decision and to obligate loan funds, if appropriate. Section 2 describes the steps the Loan Originator and the closing agent must take to prepare the loan for closing. Section 3 describes the steps required to actually obtain funds for the closing and ensure that the closing is accomplished. Section 4 describes the process for administering construction loans.

SECTION 1: LOAN APPROVAL AND OBLIGATION

8.2 THE LENDING DECISION

If the underwriting analysis indicates that the loan should be approved, the Loan Originator must submit a complete case file to the Loan Approval Official. The documents that must be submitted are listed in Attachment 8-A. The Loan Approval Official should review all of the documents contained in the case file to ensure that they are completed properly, and must confirm that the Loan Originator's underwriting decision is sound. The Loan Approval Official must approve or reject the loan within 30 days of receiving a complete case file.

A. Rejection

If the loan is rejected, the Loan Originator should speak to the applicant directly to explain the reasons for the rejection. This conversation offers an opportunity to counsel the applicant about specific actions the applicant can take to permit the Agency to approve a loan in the future. Handbook Letter 15 (3550), Standardized Adverse Decision Letter, will be sent as a follow-up to the conversation, or as notification of the rejection if the applicant cannot be reached. Whenever applicants are denied credit, they must be advised of their review and appeal rights, as described in Paragraph 1.9.

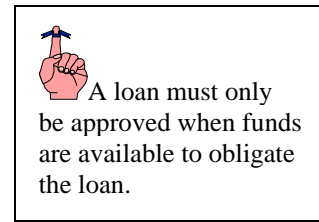
B. Approval

If the loan is approved, the Loan Originator must notify the applicant, and typically will set up an in-person meeting to discuss the loan. The meeting provides an opportunity for the applicant to sign *Form RD 3550-7, Mortgage Loan Commitment*, and to hold the applicant orientation described in Paragraph 8.6 A.1. *Form RD 3550-7* must be signed and returned to the Loan Originator within 15 days.

8.3 OBLIGATING FUNDS

A. Initial Obligation

A loan must be approved and obligated the same day.



Form RD 3550-7, Mortgage Loan Commitment, must be signed and dated by the Loan Official at the time of loan approval and obligation. Therefore, *Form RD Form 3550-7, Mortgage Loan Commitment*, or any approval letter must not be issued to the applicant unless the loan has been approved and obligated.

As soon as the Loan Approval Official approves the loan, the Loan Originator will obligate funds through MortgageServ. If, after 15 days *Form RD 3550-7, Mortgage Loan Commitment*, is not signed and returned, the Loan Originator must deobligate the loan. Once the loan has been deobligated, the application is withdrawn. Should the applicant express interest in another loan, a new application must be filed, and would be processed based on the new application date.

B. Changing the Loan Amount

If the loan amount must be increased or decreased prior to loan closing, any paperwork that reflects or is affected by the loan amount must be revised. The closing agent and the applicant must return any loan closing forms that have already been distributed so that they can be revised appropriately. Exhibit 8-1 illustrates the steps for making changes to the loan amount.

Paragraph 8.3 Obligating Funds

Exhibit 8-1	
Steps for Changing the Loan Amount	
Increase Amount of Loan	Decrease Amount of Loan
Verify availability of funds.	If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the CSC.
If the check has not yet been sent to the Field Office, cancel the request. If the check has already been sent, void the check and return it to the Centralized Servicing Center (CSC).	Amend the original obligation in MortgageServ.
Cancel the obligation for the loan in MortgageServ.	Update the new loan information in UniFi.
Update the new loan information in UniFi.	Request a new check through MortgageServ.
Reobligate the loan for the correct amount and request a new check through MortgageServ.	

C. Canceling a Loan

After the check has been returned, the Loan Originator must notify the applicant and closing agent of the loan cancellation using Handbook Letter 15 (3550), Standardized Adverse Decision Letter. In situations where the cancellation is not the applicant’s choice, the Loan Originator must indicate on Handbook Letter 15 (3550) any action that can be taken to correct or appeal the decision. It is the applicant’s responsibility to notify the seller and any contractors of the cancellation.



To cancel the entire loan prior to loan closing, the Loan Originator must deobligate the loan and cancel the check request in MortgageServ . If the check has already been sent to the Field Office, it must be voided and returned to CSC. The Agency’s or applicant’s decision to cancel the loan must be documented carefully. The following instructions are to be followed for returning checks to CSC:

Return Checks FED-EX overnight to:

TO BE OPENED BY ADDRESSEE ONLY

USDA, Centralized Servicing Center
 ATTN: PATRICK CRANE
 1520 Market Street
 NLAS FC - 201
 St. Louis, MO 63103

The required information for this packet is:

- 1) *Form RD 1940-10 Cancellation of U.S. Treasury Check and/or Obligation*
- 2) *Form RD 3550-17 Funds Transmittal Report*
- 3) Check

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SECTION 2: PREPARING FOR CLOSING

8.4 TITLE INSURANCE AND CLOSING AGENTS

For most loans, the Agency requires title insurance, and requires that the loan closing be conducted by a closing agent who meets the Agency's standards. This paragraph summarizes the Agency's requirements for title insurance and closing agents, and the procedures for approving the individuals and firms that provide those services. Details about these procedures can be found in RD Instruction 1927-B.



A. Title Insurance

Title insurance is required for most loans unless the State Director determines that the use of title insurance is not possible, is not economically feasible for the type of loan involved, or in the area of the State where the loan will be made. In these cases, an attorney's opinion can be accepted. If the total outstanding balance of any combination of any unsecured Section 502 and 504 loans that is less than \$7,500 title insurance is not required. Title insurance is required on Section 504 loans only when the total outstanding balance is \$7,500 or greater.

B. Closing Agents

An attorney or title company may act as a closing agent and close Agency real estate loans, provide necessary title clearance services, and perform other closing-related duties prescribed by the Agency. A closing agent approved by the Agency is required for all section 502 and 504 loans of \$7,500 or greater.

C. Approvals

State Offices maintain a list of title insurance companies that are authorized to provide title insurance in the State. Each approved title insurance company may provide a master list of title companies and attorneys that are covered by its closing protection letter and are thereby authorized to perform closings on behalf of that title insurance company. The State Office determines which title insurance companies will be authorized to issue title insurance policies for Agency loans based on RD Instruction 1927-B.



If an applicant selects a title company or attorney that is on the State Office list, no further verifications are necessary. If the attorney or title company selected is not on the list, they should provide an acceptable closing protection letter from an approved title insurance company.

Alternatively, title companies may submit *Form RD 1927-20, Certification of Title Insurance Company* and attorneys may submit *Form RD 1927-19, Certification of Attorney*, to request Agency approval.

D. Procedures

If the applicant selects a title company or attorney that is not on the State Office list, the Loan Originator must send the title company or attorney *Form RD 1927-2, Transmittal of Form RD 1927-19/1927-20* and attach *Form RD 1927-20*, or *Form RD 1927-19*, as appropriate. The title company or attorney must return *Form RD 1927-20* or *Form RD 1927-19* to the Loan Originator for review. Standards for evaluating a title company or attorney's qualifications are contained in RD Instruction 1927-B.



To notify a title company or attorney of their selection and approval, the Loan Originator should send *Form RD 1927-4, Transmittal of Title Information* and attach *Form RD 1927-9, Preliminary Title Opinion* if an attorney is performing loan closing.

8.5 RESPONSIBILITIES OF THE CLOSING AGENT

The Loan Originator must provide *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to the closing agent. This form provides information about the amount of personal funds required from the applicant, the appropriate disbursement of funds, any remaining requirements that the applicant must meet, and the instruments and forms required for loan closing. The Loan Originator also should attach all forms needed for loan closing as well as copies of other documents to facilitate the closing agent's review (e.g., tax bills, legal descriptions, or surveys). *Form RD 3550-25* need not be executed until loan closing, and must be returned, along with the other closing documents.

The closing agent is required to perform a number of tasks, including:

- Provide a title insurance binder (or prepare *Form RD 1927-9, Preliminary Title Opinion*) within 10 days of the date of the transmittal letter;
- Secure a title insurance policy within 60 days of loan closing or a final title opinion within 14 days of loan closing;
- Establish a mutually convenient date for the loan closing;

Paragraph 8.5 Responsibilities of the Closing Agent

- Assess whether, after closing, the borrower will have an ownership interest in the property that is of the priority required by the Agency and subject only to those exceptions approved by the Agency;
- Ensure that the applicant provides a copy of an acceptable hazard insurance policy or insurance binder, and evidence that 1 year's premium has been paid;
- Confirm that the applicant has flood insurance, if applicable;
- Collect any other information the Agency has instructed the applicant to provide;
- Ensure that the applicant is aware of any funds that must be brought to closing; and
- ***On the day of the loan closing***, confirm that the applicant has no outstanding judgments. If any additional entries of record are identified, the loan cannot be closed until these entries are cleared or approved.

The closing agent must complete *Form RD 1940-59, Settlement Statement*, which itemizes the costs to be paid by the applicant and seller at closing. UniFi will provide much of the information needed for *Form RD 1940-59*, including the amount of the initial deposit to the escrow account. The closing agent must pro rate real estate taxes between the seller and borrower using *Form RD 1940-59* to determine the actual payment amount.

The closing agent also must ensure that there are no outstanding demands for payment from a contractor or supplier for construction or repair work. *Form RD 1927-5, Affidavit Regarding Work of Improvement*, must be signed at closing by the seller or, in the case of a subsequent loan, by the borrower, to certify that there are no outstanding claims.

8.6 RESPONSIBILITIES OF THE LOAN ORIGINATOR

The Loan Originator is responsible for coordinating all aspects of the process so that the required pieces come together on the day of closing. Between the time the loan is approved and the day of closing, the Loan Originator must: (1) work with applicants to be sure they understand and carry out their obligations; (2) work closely with the closing agent and review his or her work, as appropriate; and (3) prepare the documents that the Agency must provide for closing.

A. Prepare the Applicant

Most applicants have never purchased a home before, and are unfamiliar with the details of the Agency's loan requirements. The Loan Originator must work with applicants to ensure that they understand the steps required to reach closing successfully, and that they are fully aware of the responsibilities they will assume when the loan closes.

1. Applicant Orientation

When the loan is approved, the Loan Originator typically sets up an in-person meeting, as described in Paragraph 8.2 B. for the applicant to sign *Form RD 3550-7, Mortgage Loan Commitment*, and to hold the applicant orientation.

The applicant orientation is an opportunity for the Loan Originator to introduce the applicant to the Agency's loan closing and servicing guidelines,



Under no circumstances can a loan be closed without signed evidence that the applicant orientation took place.

and to discuss the Agency's expectations of their borrowers. The Loan Originator must follow *Form 3550-23, Applicant Orientation Guide*, to ensure that all relevant topics are covered. The applicant must initial each item in Part II, and sign and date the document. Should the applicant want more information than *Form 3550-23* offers, the Loan Originator can provide additional information. In unusual cases where a face-to-face meeting cannot occur, the orientation can take place over the telephone. However, *Form 3550-23* must be sent to the applicant for initials and signature. Loan closing cannot take place unless *Form 3550-23* has been completed. The orientation should take place as soon after loan approval as possible.

2. Notification of Loan Closing

The Loan Originator must notify the applicant of the conditions to be met and information to be provided at or before loan closing using *Form RD 1927-16, Notification of Loan Closing*. The applicant must review, sign, and return *Form RD 1927-16* to the Loan Originator within 14 days from the date of the form. The loan cannot be closed unless *Form RD 1927-16* has been signed and all obligations listed on the form have been met.

Paragraph 8.6 Responsibilities of the Closing Agent

- Assess whether, after closing, the borrower will have an ownership interest in the property that is of the priority required by the Agency and subject only to those exceptions approved by the Agency;
- Ensure that the applicant provides a copy of an acceptable hazard insurance policy or insurance binder, and evidence that 1 year's premium has been paid;
- Confirm that the applicant has flood insurance, if applicable;
- Collect any other information the Agency has instructed the applicant to provide;
- Ensure that the applicant is aware of any funds that must be brought to closing; and
- ***On the day of the loan closing***, confirm that the applicant has no outstanding judgments. If any additional entries of record are identified, the loan cannot be closed until these entries are cleared or approved.

The closing agent must complete *Form RD 1940-59, Settlement Statement*, which itemizes the costs to be paid by the applicant and seller at closing. UniFi will provide much of the information needed for *Form RD 1940-59*, including the amount of the initial deposit to the escrow account. The closing agent must pro rate real estate taxes between the seller and borrower using *Form RD 1940-59* to determine the actual payment amount.

The closing agent also must ensure that there are no outstanding demands for payment from a contractor or supplier for construction or repair work. *Form RD 1927-5, Affidavit Regarding Work of Improvement*, must be signed at closing by the seller or, in the case of a subsequent loan, by the borrower, to certify that there are no outstanding claims.

3. Closing Costs

The applicant may be required to bring funds to closing for a variety of purposes, including assets that must be contributed as a down payment, funds to pay for closing costs, or resources to fund the initial deposit to the escrow account. Borrowers receiving a subsequent loan may be required to prepay interest at closing. An estimate of the required amount, determined by the Loan Originator, is provided on *Form RD 1927-16*. The closing agent makes the final determination of the actual amount required from the applicant.

B. Review Title Insurance Binder (or Preliminary Title Opinion)

Upon receipt of a title insurance binder (or *Form RD 1927-9, Preliminary Title Opinion*), the Loan Originator must carefully review it and consider the issues identified in Exhibit 8-2. The Loan Originator should review any exceptions listed to determine if the lien position is in jeopardy. If the exceptions will adversely affect the property's title, suitability, or security value, the loan cannot be closed.

Form RD 1927-8, Agreement with Prior Lienholder should be used if an agreement with a prior lien holder is necessary.

If any required information is omitted, or if the title insurance binder (or *Form RD 1927-9*), is not satisfactory, the Loan Originator should return it to the closing agent for corrections.

C. Prepare Loan Documents

The Loan Originator should assemble the forms needed for closing, and forward them to the closing agent with *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*. The closing agent is responsible for completing the appropriate forms, preparing the security instruments, and obtaining signatures at closing, as needed. Attachment 8-A lists the documents needed for loan closing.

In unusual circumstances, changes must be made to the text of a security instrument or promissory note. For example, in the case of a nonprogram borrower, the clauses relating to refinancing to other credit and prohibition on leasing will be stricken. The Loan Originator should draw a line through only the specific language to be deleted, and alert the closing agent of the deletions. All persons signing the security instrument or promissory note must initial the changes in the margin.

Exhibit 8-2



Reviewing the Title Insurance Binder (or Preliminary Title Opinion)

- After closing, the borrower must become the owner of record of the real property.
- Any liens or recorded claims that would prevent the Agency from obtaining an enforceable mortgage must be removed.
- Outstanding judgments, bankruptcy, insolvency, or probate proceedings must be resolved.
- All property rights intended to be taken as security must be available.
- If wetlands easements or other conservation easements have been placed on the property, they must be acceptable to the Agency.
- If there are any exceptions of record, they must be acceptable to the Agency.



Paragraph 8.6 Responsibilities of the Loan Originator

1. Special Documents for Assumptions

Whether new funds are obligated or existing loan funds are recycled through an assumption is primarily an accounting function, and is largely transparent to the purchaser and seller. However, there are 3 procedural differences that will affect the purchaser and the seller. First, the purchaser must sign *Form RD 3550-22, Assumption Agreement Single Family Housing* at closing. Second, the original note is not returned to the seller. Instead, the note is amended to indicate that it has been assumed. The original Promissory Note, with a copy of *Form RD 3550-22* attached, is kept in a locked fire-proof file. Copies are placed in the purchaser's case file. Third, *Form RD 3550-16, Release from Personal Liability* is provided to the seller at closing. The agreement is executed to release the seller from all personal liability for the amount of debt being assumed. In cases where the debt is not being assumed in full, CSC will handle the settlement of the remaining debt and any release of liability for that portion of the debt not being assumed.

2. Special Documents for Subsequent Loans

Applicants who are obtaining a subsequent loan have a legal right to cancel the loan within 3 business days from whichever of the following activities occurs last: (1) execution of the mortgage or deed of trust; (2) receipt of *Form RD 1940-41, Truth in Lending Statement*; or (3) receipt of *Form RD 1940-43, Notice of Right to Cancel*. The Loan Originator or closing agent cannot disburse funds to the applicant until the 3 business days have passed, unless a hardship exists and the applicant waives his or her right to cancel the loan in writing.

D. Reverifying Income

An applicant's income must be reverified before loan closing if: (1) the closing will occur more than 90 days (or 120 days if the applicant has continuously worked for their present employer for the last 2 years) after the date of the last verification of employment; (2) there is evidence to indicate a change in financial status; or (3) the applicant's employment status had changed within 6 months prior to submission of the application. All reverification activity should be documented carefully.



If the income reverification indicates a significant change in income, the Loan Originator should take the following steps:

- Verify that the applicant is still income-eligible. A program loan cannot be granted if the applicant's adjusted income exceeds the moderate-income level at closing. (There are no income restrictions for nonprogram applicants.)

- Determine whether the applicant is eligible for payment subsidy. Payment subsidy may be granted if the applicant's adjusted income is at or below the applicable moderate-income limit.
- Consider whether the applicant could obtain 100 percent private financing and refer the applicant to a private lender, if appropriate.
- Confirm that the applicant has adequate repayment ability.

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SECTION 3: CLOSING

8.7 OBTAINING FUNDS FOR CLOSING

The Agency utilizes an automated process for the electronic disbursement of loan funds known as the Automated Clearing House (ACH) network. This process pertains only to initial disbursements on section 502 loans. At the appropriate time, funds are released via ACH into the closing agent's account in order to close the loan. Under no circumstances will the loan closing proceeds be transferred from one closing agent's bank account to another. In the event the funds were sent to the wrong closing agent, call CSC at the Field Support/ACH Help Desk.

The ACH process is **not** utilized for subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 grants, and 504 loans. Subsequent disbursements on construction loans, section 504 Loan and Grant combos, 504 loans, and 504 grants only are requested via the MortgageServ system.

Any loan that is closed in the Field Office will use a paper check, i.e. Native American loans closed via Office of General Counsel (OGC) and section 502/504 Note only loans. Checks are generated the day they are requested and are dated for 3 days later.

8.8 ESTABLISHING THE DISBURSEMENT SCHEDULE

Some borrowers will be able to occupy their dwellings immediately, while others will need to remain in other housing until construction or rehabilitation is complete. To avoid requiring borrowers to repay an Agency loan while continuing to pay other housing costs, borrowers who cannot occupy the property within 30 days are permitted to defer loan payments.

A. Permanent Loans


If the loan funds are used to purchase an existing dwelling or newly built house, or to complete minor repairs, such as painting or carpeting, the borrower should be able to occupy the property within 30 days. In these situations, a permanent loan is made and the borrower's repayment obligation begins immediately. Funds for permanent loans are requested in a single advance. In general, the loan funds are disbursed in full at closing. If funds for repairs are not fully disbursed at loan closing, the undisbursed loan proceeds are deposited into an escrow account supervised by the closing agent, or into a supervised bank account and disbursed in accordance with RD Instruction 1902-A.



Paragraph 8.8 Establishing the Disbursement Schedule

B. Construction Loans

If loan funds are to be used to build a new dwelling or to undertake repairs that will prevent the borrower from occupying the dwelling for more than 30 days, the loan is made as a construction loan. Funds for construction loans are disbursed in multiple advances that begin to accrue daily simple interest as of disbursement at the borrower’s Equivalent Interest Rate (EIR) or floor rate whichever is greater, but not to exceed the note rate. When activating the construction loan, and to ensure that interest accrues at the subsidized rate during construction, the Loan Originator must enter the subsidized rate into MortgageServ. Remember, do not use the floor rate when the loan involves a Leveraged Loan.

	For leveraged loans, always use the Equivalent Interest Rate (EIR)
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The Loan Originator will post each disbursement into MortgageServ and MortgageServ will calculate and record the amount of the interest accrual during the construction period, the Loan Originator must generate the Maximum Loan Amount/Payment Assistance Information worksheet from UniFi and place it in the borrower’s case file when the construction loan is activated. The construction loan is converted into a permanent loan in MortgageServ when the final disbursement is made.

8.9 ESTABLISHING A REPAYMENT SCHEDULE

The Loan Originator must indicate the appropriate monthly payment schedule on *Form RD 1940-16, Promissory Note*. Under no circumstances will a new loan be scheduled with an annual installment.

Borrowers with existing loans specifying annual payments may request conversion to monthly payments, and must convert to a monthly payment schedule before any subsequent loan or new payment assistance is approved.

8.10 ORIGINAL EQUITY

Original equity is determined at the time the initial subsidy is granted. Original equity is the difference between current market value and the total of all Agency and leveraged assistance (including subordinate affordable housing products and/or grants). Prepaid taxes and insurance are not considered original equity, nor are contributions toward closing costs. *Form RD 3550-12, Subsidy Repayment Agreement*, contains the original equity amount.

When an applicant is purchasing a program Real Estate Owned (REO) property and the purchase price is less than the market value due to an administrative price reduction, the equity to be credited to the borrower (if any) is any difference between the actual purchase price and the loan amount. Administrative price reductions do not affect original borrower equity.

8.11 LOAN CLOSING

The closing agent should review the information provided during the applicant orientation with the applicant again at loan closing. The closing agent also must review each closing document with the applicant, obtain signatures, as appropriate, and collect and disburse all required funds. Attachment 8-A provides a list of the documents that may be required at closing.

A. Loan Closing Document Submission

Many of the legal documents and other information used in underwriting the loan must be provided to CSC in order to assist with quality assurance and servicing.


Prior to loan closing the Loan Originator must complete the following items to be submitted to the loan-closing agent:

1. *Form RD 3550-19, Transmittal – Closing Documents*, with the appropriate documents as described in the DLOS/UniFi manual's loan closing instructions. Once completed, these forms/documents must be placed in a sealed envelope to be submitted to CSC after loan closing.
2. *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*, which includes the required forms to be signed by the borrower(s) at loan closing.

Once loan closing has occurred the loan-closing agent should submit the following items to CSC via an express delivery service on the day of loan closing or the next day at the latest:

1. *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement*, with copies of required documents as noted on *Form RD 3550-25*.
2. The sealed envelope that was included with the loan closing package.

The above forms should be sent so that they arrive at CSC within 6 business days for loans with a Right of Rescission.

	Special Loan Closing Requirements
<ul style="list-style-type: none">• See Chapter 9 for condominiums, community land trusts, planned unit developments, or manufactured homes.• See Chapter 10 for leveraged loans.	

Paragraph 8.11 Loan Closing

The loan-closing agent should return all original documents to the loan originator to be retained in the case file. However, the original Promissory Note must be retained in a separate, secured storage area. The title insurance policy (or final title opinion) will be sent only to the Loan Originator and applicant by separate envelope. CSC does not receive a copy of the Final Title Policy.

The loan docket for construction loans should not be sent to CSC until the loan is converted to a permanent loan and the Promissory Note is amended.

B. Review Closing Documents

The Loan Approval Official must review the closing documents to verify that the Agency has received the proper lien priority. The Loan Approval Official also should check *Form RD 1927-16, Notification of Loan Closing* to confirm that the applicant submitted all required information. The Loan Approval Official then signs *Form RD 3550-25, Loan Closing Instructions and Loan Closing Statement* to certify that the loan was closed in accordance with the instructions provided.

C. Activate the Loan

The Loan Originator activates the loan in MortgageServ after loan closing to signal CSC that the loan has been closed, and that servicing should begin. CSC does not begin to service construction loans until they are converted to permanent.

D. Record Mortgage or Deed of Trust

The closing agent must record *Form RD 3550-14* after loan closing. The closing agent should submit an unrecorded copy to the Loan Originator along with the other closing documents. The recorded copy should be provided to the Loan Originator as soon as it is completed. If the original is retained by the filing official, a conformed copy showing the date and place of recordation must be provided.

E. Secure Title Insurance Policy

The closing agent must secure the title insurance policy and deliver it to the Loan Originator and applicant. A copy of the binder/commitment letter must be forwarded to CSC within 7 days of loan closing. A copy of the title insurance policy will be sent to CSC upon receipt in the field office.

SECTION 4: CONSTRUCTION LOANS

8.12 ADMINISTER CONSTRUCTION FUNDS

When funds are used for construction or rehabilitation, the Loan Originator must supervise their use. The Loan Originator and the borrower must each inspect the work when the contractor wishes to receive payment. If applicable, proper implementation of mitigation measures required by the environmental assessment also should be reviewed. If the work is acceptable, the Loan Originator must write “Pay to the Order of (insert name of Contractor)” on the back of the check, and provide it to the borrower for endorsement and payment to the contractor. The inspection and payment process can be expedited if the Loan Originator, borrower, and contractor meet at the dwelling for the inspection.

The amount of each disbursement for construction loans is determined by the draw schedule, which is developed based on the value of the work, according to Marshall and Swift guidelines. To ensure that all work will be completed satisfactorily, the Agency holds back 40 percent of each payment to the contractor, unless the contractor has obtained a Surety Bond, Performance Bond, or Payment Bond, in which case only 10 percent is held back. Holdbacks are released with the final payment.



8.13 CONVERT CONSTRUCTION LOANS

When a construction loan is made, the promissory note is written at the promissory note rate; however when the loan is activated, the EIR the borrower will receive is entered in MortgageServ as the note rate. This causes interest during the construction period to accrue at a subsidized rate.

A construction loan is converted to a permanent loan once the house passes the final inspection. When the loan is converted to a permanent loan, the Loan Originator must change the note rate in MortgageServ to the note rate that was in effect when the construction loan was made, so that it matches the borrower’s note.

Loan conversion and the final inspection can occur on the same day provided the local office receives a copy of the final occupancy permit or other equivalent inspection report prior to the date of final inspection and funds have been fully dispersed.

Paragraph 8.13 Convert Construction Loans

A. Modify Note and MortgageServ

On the conversion date, the Loan Originator updates *Form RD 1940-16, Promissory Note*, to reflect the new principal amount of the loan, including the interest generated during the construction period. The borrower should initial the note to acknowledge the change. The Loan Originator then amortizes the new principal amount over the remaining term of the loan. The Loan Originator also must change the note rate in MortgageServ, which was entered at the applicable EIR, to reflect the note rate in effect when the construction loan was made, and change the account number, as directed by CSC, to reflect the conversion from a construction loan to a permanent loan. Conversion to the permanent loan number will signal CSC to take over servicing responsibilities.

B. Update Payment Subsidy

If the borrower is eligible for payment subsidy, the Loan Originator must reverify income if more than 90 days (or 120 days if the applicant has continuously worked for the their present employer for the last 2 years) have passed since the last verification of employment or there is evidence to indicate a change in financial status since the construction loan was made. The Loan Originator must generate *Form RD 1944-14, Payment Assistance/Deferred Mortgage Assistance Agreement* or *Form RD 1944-6, Interest Credit Agreement* and *Form RD 3550-12, Subsidy Repayment Agreement* and obtain the appropriate signatures.

C. Generate a New Truth in Lending Disclosure Statement

The Loan Originator must generate a new *Form RD 1940-41, Truth in Lending Statement* to reflect the actual loan amount, and obtain the borrower's signature.

ATTACHMENT 8-A

DOCUMENTS TO BE SIGNED OR SUBMITTED AT LOAN CLOSING

<i>RD 3550-14</i>	<i>Real Estate Mortgage or Deed of Trust for (State)</i>
<i>RD 1940-16</i>	<i>Promissory Note</i>
<i>RD 1927-9</i>	<i>Preliminary Title Opinion or Title Insurance Binder</i>
<i>RD 1940-41</i>	<i>Truth in Lending Statement</i>
<i>RD 1940-43</i>	<i>Notice of Right to Cancel (if applicable)</i>
<i>RD 1940-59</i>	<i>Settlement Statement (or equivalent form)</i>
<i>RD 1944-6</i>	<i>Interest Credit Agreement (if applicable)</i>
<i>RD 1944-14</i>	<i>Payment Assistance/Deferred Mortgage Assistance Agreement (if applicable)</i>
<i>RD 3550-12</i>	<i>Subsidy Repayment Agreement (if applicable)</i>
<i>Document</i>	<i>Evidence of Insurance</i>
<i>RD 3550-15</i>	<i>Tax Information</i>
<i>RD 3550-9</i>	<i>Initial Escrow Account Disclosure Statement</i>
<i>RD 1927-5</i>	<i>Affidavit Regarding Work of Improvement (within 45 days)</i>
<i>RD 1927-8</i>	<i>Agreement with Prior Lienholder (if applicable)</i>
<i>RD 3550-22</i>	<i>Assumption Agreement - Single Family Housing (if applicable)</i>
<i>RD 3550-16</i>	<i>Release from Personal Liability (if applicable)</i>
<i>RD 3550-17</i>	<i>Funds Transmittal Report</i>
<i>RD 1955-49</i>	<i>Quitclaim Deed or Warranty Deed (if applicable)</i>
<i>RD 3550-10</i>	<i>Condominium Rider (if applicable)</i>
<i>RD 3550-11</i>	<i>Planned Unit Development Rider (if applicable)</i>
<i>RD 3550-25</i>	<i>Loan Closing Instructions and Loan Closing Statement</i>
<i>Documents</i>	<i>Leverage Documents such as the Promissory Note and Mortgage or Deed of Trust or Grant Agreement (if applicable)</i>
<i>SF-5510</i>	<i>Authorization Agreement for Preauthorized Payments (if applicable)</i>
<i>Document</i>	<i>Homeowners Authorization letter for taxes and Insurance (if applicable)</i>