

1651.0081 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN MANAGEMENT.

Subpart 1. **Closing.** Upon receiving notification of RFA acceptance, the lender shall close the first mortgage loan. At the time of closing, the sponsoring seller must present all legal documents relating to the sale, including the seller's proposed financing for the seller's loan to the applicant. The lender must record security documents relating to the loan. The lender is not responsible for preparation of the seller's financing, but must record the seller's financing to ensure that it is recorded in a secondary security position. The lender must notify the RFA that the loan is closed and recorded by completing the lender certification section and returning the original RFA application, a copy of the note and loan agreement, and copies of the recorded documents and final title opinion to the RFA.

Subp. 2. **Payment.** Within ten business days of receipt of written notice under subpart 1 that the first mortgage loan is closed and recorded, the RFA shall initiate payment to the lender for the RFA's participation interest in the loan.

Subp. 3. **Participation certificate.** Within five working days after receipt of finally collected funds, the lender shall complete and return a participation certificate as provided by the RFA witnessing the RFA's undivided pro rata interest in the seller-sponsored first mortgage loan.

Subp. 4. **Loan management.** The lender shall manage the first mortgage loan, including the RFA participation interest, with the degree of care and diligence usually maintained by agricultural real estate lenders. The lender shall have custody and control of all loan documents except the original application which must be retained by the RFA.

The lender shall manage, administer, and enforce the loan documents in its own name and also on behalf of itself and the RFA, including, without limitation, the right to accelerate a seller-sponsored first mortgage loan on default and to foreclose or otherwise enforce remedies against the borrower.

Subp. 5. **Lender notification.** The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of any first mortgage loan. The lender shall also notify the seller of any defaults that remain unresolved over 45 days.

Subp. 6. **Prior written consent.** The lender shall obtain the prior written consent of the borrower and the RFA before:

A. making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

B. waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

C. modifying or waiving a term of the notes or related instruments evidencing or securing the first mortgage loan.

Subp. 7. **Limitations on responsibility.** Neither the lender nor the RFA is in any way responsible for the administration of the seller-sponsor's loan, or the protection of any of the seller's legal rights.

Statutory Authority: *MS s 41B.07; 41C.13*

History: *20 SR 2251(NO. 42); 30 SR 372*

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