

Section B. Mortgage and Note Forms

Overview

In This Section This section contains the topics listed in the table below.

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1. General Information on Mortgage and Note Forms

Introduction This topic contains general information on mortgage and note forms, including

- definitions of mortgage and note
- obtaining mortgage and note forms
- lender responsibility for determining mortgage and note form compliance
- mortgage and note format, and
- HOC authority to impose additional requirements.

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**4155.2 6.B.1.a
Definitions of
Mortgage and
Note** For purposes of this section, the term

- “*mortgage*” includes any form of security instrument that is commonly used in a jurisdiction in connection with a loan secured by a one to four family residential property, such as a deed of trust or security deed, and
- “*note*” includes any form of credit instrument commonly used in a jurisdiction to evidence a mortgage loan.

**4155.2 6.B.1.b
Obtaining
Mortgage and
Note Forms** The FHA does not provide mortgage and note forms. The lender is responsible for developing or obtaining mortgage and note forms that comply in form and substance with FHA and applicable state and local requirements for a(n)

- recordable and enforceable mortgage, and
- enforceable note.

The mortgage and note *must* be separate documents.

References: For information on the

- FHA [Model Mortgage Form](#), see [HUD 4155.2 6.B.2](#), and
 - FHA [Model Note Form](#), see [HUD 4155.2 6.B.3](#).
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1. General Information on Mortgage and Note Forms, Continued

4155.2 6.B.1.c Lender Responsibility for Determining Mortgage and Note Compliance

Lenders should not seek advance approval of mortgage and note forms from FHA or the Homeownership Centers (HOCs). The lender is responsible for determining that the mortgage and note forms comply with the requirements of this section.

Send questions about appropriately interpreting the requirements for mortgage and note forms to:

Assistant General Counsel for Single Family Mortgages
Department of Housing and Urban Development
451 7th Street, S. W., Room 9240
Washington, DC 20410

Note: Any requests for changes to the requirements of this section should also be directed to the address above. The FHA does not expect to grant case-by-case exceptions.

4155.2 6.B.1.d Mortgage and Note Format

A mortgage or note may include the

- lender's business name and/or logotype at the top of the form, and
- last revision date to clarify versions for each form being distributed.

Layout and format are at the lender's discretion, where not specified by FHA.

The type or print font size and style should be similar to the mortgages and notes approved by the

- Federal National Mortgage Association (Fannie Mae (FNMA)), and/or
- Federal Home Loan Mortgage Corporation (Freddie Mac (FHLMC)).

References: For information on the

- FHA [Model Mortgage Form](#), see [HUD 4155.2 6.B.2](#), and
 - FHA [Model Note Form](#), see [HUD 4155.2 6.B.3](#).
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1. General Information on Mortgage and Note Forms, Continued

4155.2 6.B.1.e [HOCs](#) have the authority to impose additional requirements regarding mortgage and note provisions, to ensure consistency with state laws appropriate to their jurisdictions.

HOC Authority to Impose Additional Requirements

2. Mortgage Form Requirements

Introduction This topic contains information on the mortgage form requirements, including

- *Model Mortgage Form* format
 - Fannie Mae/Freddie Mac Forms
 - uniform covenants
 - Paragraph 18, Foreclosure Procedure, and
 - non-uniform covenants for the paragraphs subsequent to Paragraph 18.
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**4155.2 6.B.2.a
Model
Mortgage Form
Format** Lenders *must* use the [Model Mortgage Form](#), and follow the instructions for completing the form provided in [HUD 4155.2 12.A.2](#).

Lenders can only adapt the form as necessary to conform to state or local requirements.

**4155.2 6.B.2.b
Fannie
Mae/Freddie
Mac Forms** FHA has made heavy use of the approved Fannie Mae/Freddie Mac mortgage forms in preparing FHA forms requirements. The provisions regarding the numbered paragraphs of the [Model Mortgage Form](#) are to be the same as Fannie Mae/Freddie Mac mortgages (except New York and Maine), with the addition of the FHA case number on the first page.

Reference: For specific information about mortgage and note form state requirements, see [HUD 4155.2 6.B.5](#).

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2. Mortgage Form Requirements, Continued

**4155.2 6.B.2.c
Uniform
Covenants** The lender must use the FHA “Uniform Covenants” in Paragraphs 1-16 on the [Model Mortgage Form](#) verbatim, rather than the Fannie Mae/Freddie Mac “Uniform Covenants,” which are substantially different from FHA policy.

The lender must consult with FHA if it concludes that information in paragraphs 1-16 does not meet state or local requirements. The lender *cannot* make changes without prior FHA approval.

**4155.2 6.B.2.d
Paragraph 18:
Foreclosure
Procedure** The lender must adapt Paragraph 18, “Foreclosure Procedure,” on the [Model Mortgage Form](#) for each state, as applicable, and as explained in the instructions for the model form provided at [HUD 4155.2 12.A.2](#). Paragraph 18 is intended to address foreclosure procedures only.

**4155.2 6.B.2.e
Non-Uniform
Covenants:
Paragraphs
Subsequent to
Paragraph 18** The lender may insert additional numbered paragraphs into the [Model Mortgage Form](#) after Paragraph 18, as required, to adapt the mortgage for a specific state.

The text for the remaining paragraphs should be the same as the text of the paragraphs following the foreclosure procedure paragraph on the most recently approved Fannie Mae/Freddie Mac mortgage form, except the paragraph entitled “Riders to this Security Instrument.”

3. Note Requirements

Introduction This topic contains information on the *Model Note Form* requirements, including

- *Model Note Form* format, and
 - the note as a negotiable instrument.
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**4155.2 6.B.3.a
Model Note
Form Format** Lenders *must* use the [Model Note Form](#), and footnotes accompanying the form, adapting the form only as necessary to conform to state or local requirements.

A lender is permitted to use a multi-state note form, *except* where special state provisions may be required by state statutes.

Reference: For additional information on state requirements for mortgage and note forms, see [HUD 4155.2 6.B.5](#).

**4155.2 6.B.3.b
Note as a
Negotiable
Instrument** The note must be a negotiable instrument. The [Model Note Form](#) has not been reviewed for compliance with all state laws, which could affect negotiability.

In the case of an Adjustable Rate Mortgage (ARM), the note must meet all negotiability requirements, except that interest rates are determined by reference to an index.

References: For

- the *Model Adjustable Rate Note Form*, see [HUD 4155.2 12.A.4.a](#), and
 - additional notes on completing this form, see [HUD 4155.2 12.A.4.b](#).
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4. Mortgage and Note Form Requirements in Special Circumstances

Introduction This topic contains information on requirements for mortgage and note forms in special circumstances, including

- mortgage riders and note allonges for special circumstances
 - using additional language in the mortgage and note
 - mortgage and note requirements for ARMs
 - types of ARMs insured by FHA
 - option for form modifications for ARMs
 - *Model Mortgage Form* rider requirements
 - additional requirements for cooperatives
 - *Model Note Form* allonge requirements
 - tax exempt financing
 - open end advances
 - home equity conversion mortgage (HECM), and
 - combined construction and permanent loans.
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4155.2 6.B.4.a Mortgage Riders/Note Allonges for Special Circumstances Additional language may be required for a mortgage and/or note, as special situations arise.

The table below lists the mortgage rider and/or note allonge to use in conjunction with the [Model Mortgage Form](#) or [Model Note Form](#), as required.

Mortgage Rider/Note Allonge	Reference
Graduated Payment Rider	HUD 4155.2 12.A.5
Graduated Payment Allonge Amending Note	HUD 4155.2 12.A.6
Growing Equity Allonge Amending Note	HUD 4155.2 12.A.7
Condominium Rider	HUD 4155.2 12.A.8
Rehabilitation Loan Rider	HUD 4155.2 12.A.9

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.a Mortgage Riders/Note Allonges for Special Circumstances (continued)

Mortgage Rider/Note Allonge	Reference
Planned Unit Development Rider	HUD 4155.2 12.A.10
Tax-Exempt Financing Rider	HUD 4155.2 12.A.11
Rider for Section 248 Mortgage	HUD 4155.2 12.A.12
Rider for Section 247 Mortgage	HUD 4155.2 12.A.13
Non-Owner Occupancy Rider	HUD 4155.2 12.A.14
Water Purification Equipment Rider	HUD 4155.2 12.A.15
Cooperative Rider	HUD 4155.2 12.A.16
Construction Rider for Construction/Permanent Mortgage	HUD 4155.2 12.A.17

4155.2 6.B.4.b Using Additional Language

When additional language is added to a model note, and a rider or allonge is *not* provided

- print or type the additional language in the body of the document, or
- incorporate the additional language by using a rider, addendum, or similar type of document.

4155.2 6.B.4.c Mortgage and Note Requirements for ARMs

Use the [Model Adjustable Rate Note Form](#) in place of the [Model Note Form](#), if the loan is an adjustable rate mortgage (ARM).

The description of the adjustable rate note found on the first page of the [Model Mortgage Form](#) should be a sufficient description of the debt for recording purposes. However, FHA does allow the lender to add language reflecting the nature of the adjustable rate for the mortgage. The [ARM](#) must be fully amortizing and contain amortization provisions that allow for periodic adjustments in the rate of interest charged.

Reference: For information on [ARMs](#), see [HUD 4155.1 6.B.](#)

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.d Types of ARMs Insured by FHA

FHA insures [ARMs](#) that have fixed interest rates for the first one, three, five, seven, or ten years, with adjustment to the rate after the fixed interest rate period.

Reference: For more information on

- ARM annual interest rate adjustments and interest rate caps, see [HUD 4155.1 6.B](#), and
- Section 251 ARMs, see [HUD 4155.2 1.C.16](#).

4155.2 6.B.4.e Options for Form Modifications for ARMs

Lenders have two options for preparing the mortgage for an [ARM](#) loan. The table below describes the two options for changing the [Model Mortgage Form](#) for an [ARM](#) to indicate the adjustable interest rate feature.

Note: These options for an [ARM](#) mortgage form do *not* apply to Adjustable Rate Home Equity Conversion Mortgages (HECM).

Option	Instructions
Option 1	Use the Model Mortgage Form with no special adaptation for adjustable rate loans, if such a mortgage would be fully enforceable under state or local law.

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.e Options for Form Modifications for ARMs (continued)

Option	Instruction
Option 2	<p>Use the Model Mortgage Form with one or more of the following adaptations to the form:</p> <ul style="list-style-type: none"> • change the <ul style="list-style-type: none"> – title to <i>Adjustable Rate Mortgage</i> – first use of the word <i>Note</i> on the first page to <i>Adjustable Rate Note</i> – first use of the word <i>interest</i> on the first page to <i>interest at a rate subject to adjustment</i> • add additional language either to Paragraph 1 or as numbered paragraph(s) at the end of the mortgage, which references, describes, or summarizes the adjustable rate feature of the note <ul style="list-style-type: none"> – to the extent desired, or – as required for enforceability under state or local law.

4155.2 6.B.4.f Model Mortgage Form Rider Requirements

The table below describes which riders to prepare with the [Model Mortgage Form](#) for various types of loans.

When preparing documents for a ...	Use the Model Mortgage Form along with the ...
graduated payment mortgage (GPM)	Graduated Payment Rider

Continued on next page

4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.f Model Mortgage Form Rider Requirements (continued)

When preparing documents for a ...	Use the Model Mortgage Form along with the ...
Section 203(k) loan involving a release from the Rehabilitation Escrow Account	Rehabilitation Loan Rider Reference: For more information, see HUD 4240.4 , 203K, <i>Rehabilitation Home Mortgage Insurance</i> .
condominium	Condominium Rider Note: This information in this section does <i>not</i> supersede HUD 4265.1 , <i>Home Mortgage Insurance Condominium Units</i> , <i>except</i> for the following: <ul style="list-style-type: none"> • the security instrument provisions from HUD 4265.1, <i>Home Mortgage Insurance Condominium Units</i>, paragraph 4-2 must not be added to the mortgage and note, and • the <i>Resolution of Inconsistency</i> provisions from HUD 4265.1, <i>Home Mortgage Insurance Condominium Units</i>, paragraphs 12-8 to 12-10 must not be contained in the mortgage.
cooperative mortgage insured under Section 203(n) of the National Housing Act	Cooperative Rider Reference: For additional modification information, see HUD 4155.2 6.B.4.g .
planned unit development (PUD) mortgage	Planned Unit Development Rider

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.f Model Mortgage Form Rider Requirements (continued)

When preparing documents for a ...	Use the Model Mortgage Form along with the ...
non-owner occupant mortgage	Non-Owner Occupancy Rider , when the mortgage involves an exception to the owner occupancy principal residence requirement.
property with individual water purification equipment	Water Purification Equipment Rider when the equipment is permitted by 24 CFR 203.52 .

4155.2 6.B.4.g Additional Requirements for Cooperatives

Modify the property description in the [Model Mortgage Form](#) as needed to describe the property interest in a manner consistent with the language in the [Cooperative Rider](#).

The lender must determine if the [Model Mortgage Form](#) and [Cooperative Rider](#) will result in a first lien, as required by [24 CFR 203.43c\(e\)](#). If necessary to satisfy the requirement of this regulation, the lender must obtain additional security documents, such as a(n)

- Uniform Commercial Code (UCC) security agreement, and/or
- assignment of the borrower’s lease.

The lender should contact the FHA at the address provided in [HUD 4155.2 6.B.1.c](#) if the [Model Mortgage Form](#) and [Cooperative Rider](#) must be modified to establish the required first lien under applicable state law.

Note: The information in this topic supersedes the mortgage form instructions in [HUD 4240.3](#), paragraphs 1-12.

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

4155.2 6.B.4.h Model Note Form Allonge Requirements

The table below describes the allonges to prepare with the [Model Note Form](#).

When preparing documents for a ...	Use the Model Note Form along with the ...
graduated payment mortgage (GPM)	Graduated Payment Allonge Amending Note
growing equity mortgage (GEM)	<p>Growing Equity Allonge Amending Note</p> <p>Note: There is no Growing Equity rider for a GEM. If required by state law or as otherwise needed to ensure the enforceability and priority of the mortgage, ensure that the mortgage contains a payment schedule consistent with the schedule in the Growing Equity Allonge.</p> <p>Otherwise, the lender has the option of including such a schedule, and may recite the provisions of the note verbatim in a rider.</p>

4155.2 6.B.4.i Tax Exempt Financing

When using the [Tax Exempt Financing Rider](#), refer to HUD Notice 90-76 for

- instructions to request changes to the rider
- other instructions including a notice to be provided to the borrower, and
- guidance when involved in tax-exempt financing using qualified mortgage bonds as defined in the Internal Revenue Code, or any replacement guidance.

The [Tax Exempt Financing Rider](#) does *not* apply to financing through

- qualified veterans mortgage bonds, or
- other public or private mortgage bonds which are not qualified mortgage bonds.

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4. Mortgage and Note Form Requirements in Special Circumstances, Continued

**4155.2 6.B.4.j
Open End
Advances**

Refer to [24 CFR 203.44](#) for relevant requirements for open end advances.

**4155.2 6.B.4.k
Home Equity
Conversion
Mortgage
(HECM)**

Refer to [HUD 4235.1](#), *Section 255, Home Equity Conversion Mortgages*, for special instructions for mortgages and notes being used in the Home Equity Conversion Mortgage (HECM) program.

Reference: For more information on the HECM program, see [HUD 4155.2 1.C.17](#).

**4155.2 6.B.4.l
Combined
Construction
and Permanent
Loans**

The FHA does not prescribe the terms or form of the [Construction Rider](#) when a single closing is used for an uninsured construction loan that will convert to an insured permanent loan when construction is completed.

Exception: All special construction terms do terminate when the construction loan converts to a permanent loan. After conversion to a permanent loan, only the permanent loan terms continue to be effective, using documents meeting the standard requirements.

5. Mortgage and Note Form Special Requirements for Specific States and Localities

- Introduction** This topic contains information on special requirements for mortgage and note forms for specific states and localities, including
- applying state laws to mortgage and note forms, and
 - special requirements for Northern Mariana Islands and American Samoa
 - special requirements for Puerto Rico
 - special requirements for Indian reservations
 - special requirements for Iowa, North Dakota, and Wisconsin
 - special requirements for South Dakota
 - special requirements for New York and Maine
 - special requirements for New York refinances
 - special requirements for Pennsylvania
 - special requirements for Texas, and
 - special requirements for New Mexico.
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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

4155.2 6.B.5.a Applying State Laws to Mortgage and Note Forms

This section and the instructions for the model forms identify some specific adaptations of the model forms that are needed to comply with state laws. Other state laws may require adaptations. Lenders should consult the Fannie Mae and Freddie Mac instructions for guidance on meeting state law requirements when preparing mortgage and note forms.

The validity and enforceability of the mortgage and note depends on compliance with state law, even if such law is not reflected in this section. For this reason, FHA emphasizes the need for a lender to use mortgages and notes that comply with state law.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

4155.2 6.B.5.b Special Requirements for Northern Mariana Islands or American Samoa

The [Model Mortgage Form](#) is not applicable to the Commonwealth of the Northern Mariana Islands or American Samoa.

Lenders intending to seek mortgage insurance in these jurisdictions should contact the FHA for further instructions.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

4155.2 6.B.5.c Special Requirements for Puerto Rico

The lender should write mortgages, notes, riders and allonges for Puerto Rico in English, interlineated with Spanish, in the same manner as in the Fannie Mae/Freddie Mac forms.

A Spanish translation of required language for the [Model Mortgage Form](#) and [Model Note Form](#) is available from the

- Atlanta Homeownership Center (HOC), or
- HUD Caribbean Field Office.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

4155.2 6.B.5.d Special Requirements for Indian Reservations

If the mortgage is insured on Indian land under Section 248 of the National Housing Act, use the [Rider for Section 248 Mortgage](#) with the [Model Mortgage Form](#).

Use the [Construction Rider for Construction/Permanent Mortgage](#) if the Section 248 mortgage also secures a construction loan.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

4155.2 6.B.5.e Special Requirements for Iowa, North Dakota, and Wisconsin

The [Model Mortgage Form](#) provides requirements for deficiency judgments. Iowa, North Dakota, and Wisconsin are exempted from these requirements because these states permit short-term redemption periods after foreclosure, if lenders waive their rights to deficiency judgments.

Since it is in its best interest to have a short-term redemption period, FHA requires that mortgages in these states contain the short-term redemption provisions described in the “Non-Uniform Covenants” of the most recently approved Fannie Mae/Freddie Mac mortgage forms, using

- Paragraph 23 for North Dakota and Wisconsin, and
- Paragraph 24 for Iowa.

The North Dakota mortgage must include the following text in bold type in the title: ***Short Term Mortgage Redemption***.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

**4155.2 6.B.5.f
Special
Requirements
for South
Dakota**

The table below describes the text that *must* be in the South Dakota mortgage.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

Location	Required Text
Included in the Title	<i>One Hundred Eighty Day Redemption</i> in bold type.
Immediately after Paragraph 18	<i>Notice–The parties agree that the provisions of the one hundred eighty day redemption mortgage act govern this mortgage</i> in bold type.
Immediately after the Notice defined above	<p>The following language should be included:</p> <p><i>Borrower agrees that in the event of a foreclosure of this Security Instrument, by action the holder of the certificate of sale issued as a result of the foreclosure may apply to the appropriate court for a reduction of the redemption period if the mortgaged property has been abandoned by Borrower.</i></p> <p><i>Borrower agrees that if, after such notice to the parties as the court may direct, the court finds that the mortgaged property has been abandoned, then the redemption period may be reduced to a period of not less than 60 days from the date of recording of the certificate of sale issued as a result of the foreclosure of this Security Instrument.</i></p>

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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

4155.2 6.B.5.g Special Requirements for New York and Maine

The New York and Maine Fannie Mae/Freddie Mac mortgage forms are written in “plain English” style, which sometimes uses “I” instead of “Borrower.” When adding non-uniform covenants from the New York and Maine Fannie Mae/Freddie Mac forms to the [Model Mortgage Form](#)

- change “I” to “Borrower”, and
- make any necessary conforming verb changes.

The format and language for material preceding the “Uniform Covenants” should be based on the Fannie Mae/Freddie Mac forms for other states, provided that the language is in conformity with applicable law.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

4155.2 6.B.5.h Special Requirements for New York Refinances

For New York, FHA permits a lender to modify and extend a previously recorded Security Instrument to secure new financing for the same property, instead of discharging the Security Instrument of record when prepaying existing financing.

The borrower and lender must execute a new note, and either a

- HUD-approved Modification Agreement for refinancing with no increase in principal amount, or
- [Form 3172](#), *Fannie Mae/Freddie Mac Consolidation, Extension and Modification Agreement* for other refinance situations.

Copies of the agreements are available from the HOCs. Lenders may use Form 3172, *Fannie Mae/Freddie Mac Form Consolidation, Extension and Modification Agreements* provided that the form is revised as follows:

- remove all references to “Fannie Mae/Freddie Mac” Notes, Uniform Instruments and Mortgages, and
- replace those references with “Federal Housing Administration.”

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

**4155.2 6.B.5.i
Special
Requirements
for
Pennsylvania**

The *Certificate of Residence* is required at the end of the mortgage for Pennsylvania, by 21 P.S. Sec. 625. Use the following format for the *Certificate of Residence*.

<i>CERTIFICATE OF RESIDENCE</i>
<p>I, _____ do hereby certify that the correct address of the within-named lender is</p> <p>_____, witness my hand this _____ day of 2____.</p> <p>_____ Agent of Lender</p>

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

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5. Mortgage and Note Form Special Requirements for Specific States and Localities, Continued

4155.2 6.B.5.j Special Requirements for Texas

The lender must delete Fannie Mae/Freddie Mac Paragraph 26, *Waiver of Notice of Intent to Accelerate* for Texas.

If Paragraph 26 is used, adapt the text since the reference in the paragraph is incorrect and omits FHA notice language.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).

4155.2 6.B.5.k Special Requirements for New Mexico

For New Mexico, lenders must use a state-specific Deed of Trust that they may create by using the most recently approved Fannie Mae/Freddie Mac New Mexico deed of trust introductory language with some deletions and non-uniform covenants. Lenders are required to make necessary adjustments in order to comply with state law and ensure enforceability of the security instrument.

When creating FHA mortgage forms for New Mexico, delete the following definitions from the Fannie Mae/Freddie Mac introductory language:

- loan
- riders
- applicable law
- community association dues, fees and assessments
- electronic funds transfer
- escrow items
- miscellaneous proceeds
- mortgage insurance
- periodic payment, and
- successor in interest of borrower.

Reference: For information on lender responsibility for determining mortgage and note compliance, see [HUD 4155.2 6.B.1.c](#).
