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CHAPTER 14. FINAL CLOSING - INSURANCE OF ADVANCES

- 14-1. PREPARATION FOR FINAL CLOSING. This chapter covers only coinsurance of advances. (See Chapter 15 for coinsurance on completion.)
- A. Preparation for final closing. The project must be:
- 1) Completed according to the drawings and specifications (except for approved items of delayed completion covered by an acceptable escrow agreement).
  - 2) Accepted for occupancy by the lender and local government with jurisdiction.
- B. Timing. Final closing cannot take place until the title company issues a title policy free of liens except acceptable liens pursuant to Chapter 18.
- C. Closing site. Any place agreed to by the lender and mortgagor except a HUD field office.
- 14-2. REVISION OF FORMS. Same as for initial closing. (See paragraph 12-3.)
- 14-3. FINAL CLOSING DOCUMENTS. Those that are the same as at initial closing are listed below and described in paragraph 12-5. They need to be collected only once unless an updated document is required. Required updates are starred (\*); other items may need updating if changes have occurred since initial endorsement. Paragraph 14-4 describes documents required only at final closing.
- Mortgagor's organizational documents
  - Lease (if there is a leasehold)
  - Mortgage (or Deed of Trust)
  - Note
  - Coinsurance regulatory agreement
  - Mortgagor's Certificate
  - Mortgagor's attorney's opinion
  - Mortgagor's Oath
  - \* Title Policy
  - \* Hazard insurance policy
  - Assurance of funds to meet operating deficits
  - Request for Final Endorsement of Credit Instrument (Form FHA-2023)
- 14-4. ADDITIONAL REQUIREMENTS AT FINAL CLOSING. Required HUD forms and formats are starred (\*).
- A. Chattel mortgage or security agreement
  - B. Survey of completed project
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- (14-4) C. Surveyor's certificate (FHA-2457)\*
  - D. Latent defects escrow
  - E. Contractor's Prevailing Wage Certificate (HUD-92448)\*
  - F. Increase Note and related material, if necessary
- 14-5. LATENT DEFECTS ESCROW. Must be retained for 18 months after substantial completion of the project. (See paragraph 14-9, and Handbook 4561.2 for details on guarantee inspections and release of this escrow.)
  - A. If a completion assurance agreement (Form FHA-92450) is used, 2-1/2 percent of the construction contract sum must be retained in cash or letter of credit.
  - B. Assurance of completion through bonds issued by a surety (Form FHA-2452) automatically covers latent defects.
  - C. If a personal indemnity agreement (Form FHA-2459) is used, the escrow must be established by cash or letter of credit at completion.
- 14-6. HUD FINAL ENDORSEMENT
  - A. After final closing, the lender must submit the credit instrument for final endorsement to the HUD field office with jurisdiction. The request for endorsement must be by letter signed by a senior corporate official certifying that:
    - 1) The loan has been processed, underwritten, and closed in full compliance with all program requirements.
    - 2) Construction or rehabilitation has been completed, inspected, and found in full compliance with all program requirements.
    - 3) Prevailing wages were paid and all other labor standards and equal opportunity requirements followed.
    - 4) You have (or have not) obtained reinsurance and, if so, the amount.
    - 5) The project is (or is not) financed through the sale of bonds.
  - B. Attach to the letter:
    - 1) Copy of your HUD 221(d) coinsurance preliminary approval letter.

- (14-6)
- 2) If you have completed all pre-endorsement review requirements, the HUD letter granting full underwriting authority.
  - 3) Signed copies of Forms HUD-92264 and HUD-92264-A.
  - 4) Certified copies of mortgage (deed of trust) with attached regulatory agreement, note and duplicate original of title policy and certified copies of escrow agreements. (If recorder-certified copies cannot be obtained in time for HUD endorsement, HUD may accept copies certified by the title company.) HUD will keep these documents.
  - 5) New mortgagee's attorney's opinion.
  - 6) A statement signed by an authorized senior corporate official that you have increased your sound capital resources by \$1 per \$300 for any increase in the mortgage amount since initial endorsement.
  - 7) Management certification.
  - 8) Information sheet containing the following:
    - a) Superseded project number (the old FHA project number if the project's previous mortgage loan was insured or held by HUD)
    - b) Servicer name, address and FHA mortgagee number
    - c) Management agent name, address and Employer Identification Number
    - d) Month/day the project's fiscal year ends. Project annual financial statements are due 60 days after this date.
    - e) If the project is subsidized, include the following:
      - Subsidy type (Section 8, Rent Supplement or Rental Assistance Program)
      - If the project receives Section 8 assistance, the Section 8 program type (e.g., moderate rehabilitation, new construction, loan management set-aside or property disposition set-aside)
      - Number of units of each subsidy type
  - 9) Completed Form FHA-290, Closing Memorandum (See Appendix 25), if required by HUD field office with jurisdiction.

- 14-7. CLOSEOUT OF CONSTRUCTION ESCROW. If escrows were set up for completion items, you must:
- A. Inspect the work when it is completed.
  - B. If it is acceptable, release the cost-certified amount for only work actually done.
  - C. Release any balance after:
    - 1) All work is inspected and approved.
    - 2) All contractor obligations are paid.
  - D. Complete required work if mortgagor and contractor do not.
- 14-8. CLOSEOUT OF WAGE ESCROWS. Must be approved by HUD Labor Relations.
- 14-9. GUARANTEE INSPECTIONS. Done to ensure against defects in materials or workmanship that appear within 12 months after substantial completion. (See paragraph 13-11 for definition of substantial completion and paragraph 14-5 for latent defects escrow requirement).
- A. Inspect at 9 and 12 months to ensure compliance with HUD requirements. Withhold the latent defects escrow for 18 months.
  - B. For details, see Handbook 4561.2 on servicing.
- 14-10. DOCKET PREPARATION. Update the permanent project docket in your files (See paragraph 12-8) by adding:
- A. All documents related to the construction period (advances, change orders, inspections, labor standards, cost certification, etc.)
  - B. All final endorsement documents, filed in a separate section.