

### **PART A. DESCRIPTION OF CONSTRUCTION LOAN POOLS (CL AND CS)**

A construction loan pool consists of a single FHA-insured mortgage for a multifamily project under new construction or rehabilitation.

Upon maturity, construction loan pools and securities convert into project loan pools and securities. With construction loan pools, the document custodian is required to make only a single certification in connection with a new issuance of securities, and that certification is required prior to issuance. Final certification is not required for construction loan pools.

### **PART B. RESPONSIBILITIES**

After initial endorsement by the FHA, and in accordance with the conditions of the Master Custodial Agreement, form [HUD-11715](#) ([Appendix III-4](#) of the Guide) (“form HUD-11715”), the certifications required on the Schedule of Pooled Mortgages, form [HUD-11706](#) ([Appendix III-7](#) of the Guide) (“form HUD-11706”), and the Guide, the Issuer must deliver the documents set forth below to the document custodian at the location indicated on the [form HUD-11706](#). At the discretion of the document custodian and the Issuer, documents may be delivered on a piecemeal basis or after all required documents have been received for the loan file.

It is the document custodian’s responsibility to:

- (1) Accept the documents when delivered.
- (2) Ascertain that the documents relate to the loan listed on [form HUD-11706](#).
- (3) Review the documents for completeness and consistency in accordance with the review procedures required by this Manual and by Chapters [11](#), [13](#), and [32](#) of the Guide.
- (4) Notify the Issuer of any document received that requires correction or completion before certification can be made.
- (5) Certify that the documents received satisfy the requirements of certification and, if necessary, recertification.

It is the Issuer’s responsibility to correct or resolve defects, or to provide the document custodian with adequate clarification for those defects not considered material. Ginnie Mae, in its sole discretion, may require Issuers who fail to meet recertification deadlines for transferred pools to take action to mitigate Ginnie Mae’s risk exposure. Such action may include, but may not be limited to, a letter of credit. For an Issuer subject to the letter of credit or other mitigation measure, the document custodian must indicate and attest to Ginnie Mae those pools that do not meet recertification requirements.

### **PART C. CERTIFICATION**

#### **Section 1. Required Pool and Loan Level Documents**

To certify a pool prior to the issuance of securities, the document custodian must obtain from the Issuer the following properly executed pool and loan documents:

- (a) Schedule of Pooled Mortgages, [form HUD-11706](#).

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- (b) Certification and Agreement, [form HUD-11711B](#), ([Appendix III-5](#) of the Guide) (“form HUD-11711B”) in hard copy or electronic form. If the [form HUD-11711B](#) indicates a second party interest in any pooled mortgage, an original Release of Security Interest, [form HUD-11711A](#), ([Appendix III-5](#) of the Guide) (“form HUD-11711A”), is required. If there are no second party interests in the pooled mortgage, a [form HUD-11711A](#) is not required.
- (c) The original note endorsed for insurance by FHA and endorsed in blank and without recourse by the Issuer. The endorsements must provide a complete chain of title if the Issuer did not originate the loan.
- (d) An original assignment to Ginnie Mae provided by the Issuer in recordable form, but unrecorded (except for loans registered with MERS).
- (e) If the Issuer did not originate the loan, all recorded intervening assignment(s) in the loan file must document a complete chain of title from the originating mortgagee to the Issuer. If the loan was originated with MERS as the Original Mortgagee (MOM), an intervening assignment is not required as long as the loan remains registered with MERS. Copies of the recorded intervening assignments are acceptable only if the originals have been lost and if the copies clearly show evidence of recordation.
- (f) The original security instrument, recorded (or filed, if under the Torrens title system) and signed by the mortgagor securing repayment of indebtedness. A title insurance company-certified copy may be used to certify the pool. Upon receipt of the original security instrument from the recorder’s office, the Issuer is required to forward it to the document custodian. A copy of the recorded security instrument is acceptable only if the original has been lost and if the copy clearly shows evidence of recordation.
- (g) An original of the Mortgagee’s title insurance policy or other evidence of title acceptable to FHA. A copy of the title policy is acceptable only if the original has been lost.

Short form title policies are not acceptable.

- (h) An original of the performance bond (dual obligee) naming Ginnie Mae as an insured party, either on the policy, by assignment, by endorsement, or by rider. An alternative to the performance bond is an original Completion Assurance Agreement as approved by FHA, backed by either a letter of credit or cash, if applicable. This bond, or the assurance agreement, is not required in the FHA 223(f) existing project program.
  - (i) The original, recorded Uniform Commercial Code (UCC1) forms or other security documents pertaining to chattel evidencing recordation or perfection with the appropriate office. Title insurance company-certified copies may be used to certify the pool. Upon receipt of the original UCC1s from the recorder’s office, the Issuer is required to forward them to the document custodian.
  - (j) The original Uniform Commercial Code (UCC3) assignment(s) to Ginnie Mae of the lien, mortgage, or other form of security agreement on the lot in recordable or perfectible form, but unrecorded.
  - (k) A copy of the survey.
  - (l) A copy of the surveyor’s report.
  - (m) A copy of the FHA firm commitment.
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- (n) An original assignment of the FHA firm commitment to the Issuer, if the Issuer is not listed as the Mortgagee on the commitment.
- (o) An original of the building loan agreement.
- (p) A copy of the construction contract.
- (q) Other documents as Ginnie Mae may require.

In no case may a Request for Release of Documents, [form HUD-11708](#) (Appendix V-5 of the Guide) (“form HUD-11708”), substitute for a required loan document at the time the document custodian performs the single certification for a construction loan pool.

## Section 2. Other Loan Documents Supporting Each Separate Issuance

Securities are generally issued monthly as construction progresses and as advances are insured by FHA. Mortgage funds must be advanced and insured by FHA no later than the month prior to the month in which the related securities are issued. Prior to each individual issuance of securities, including the first issuance, the Issuer must deliver to the document custodian the following documents:

- (a) An original certificate (letter) documenting that the disbursement has been made to the mortgagor and payee named in form HUD-92403, Application for the Insurance of Advances;
  - (i) Verify that each item listed below corresponds to the original pool documents:
    - (A) Pool number;
    - (B) Project name; and
    - (C) FHA project number.
  - (ii) Verify the disbursement amount including cents.
  - (iii) Verify the certificate (letter) has been signed by the Issuer.
  - (iv) Verify the certificate (letter) appears on Issuer letterhead.
- (b) A copy of form HUD-92403, Application for Insurance of Advances which provides evidence of FHA insurance inclusive of the latest disbursement; and
  - (i) Verify the form pertains to the project.
  - (ii) Verify the form has been approved by an authorized signatory. The authorized signatory for loans insured by FHA may be the HUD field office or (except for initial and final draws) an FHA-approved Multifamily Accelerated Processing (MAP) lender. If the MAP lender approves the form HUD-92403, a copy of the lender’s MAP approval must be provided to the document custodian.

- (c) Evidence that title insurance coverage is in effect, inclusive of the amount of the latest disbursement. The title company may provide the exact disbursement amount or the total amount disbursed to date.

**Section 3. Document Custodian Procedures – Pool Certification**

The document custodian is required to perform the following review procedures on the pool and loan documents to confirm their completeness and consistency. Any defects discovered based on performing the required review procedures must be referred to the Issuer in a timely manner.

It is important to note that while the Issuer may authorize the document custodian to make corrections on the documents, Ginnie Mae ultimately holds the Issuer responsible for the quality of the documents.

(a) [Form HUD-11706](#)

- (i) Verify that the [form HUD-11706](#) has been completely filled out by both the Issuer and document custodian, including their Ginnie Mae identification numbers.
- (ii) File the [form HUD-11706](#) in the related Pool Master File.

(b) [Form HUD-11711B](#)

- (i) Verify that the pool number on the [form HUD-11711B](#) agrees with the Ginnie Mae pool number on the related [form HUD-11706](#).
- (ii) Determine that one of the two boxes on the form has been checked.
- (iii) If the [form HUD-11711B](#) indicates that there is a second-party security interest in the pooled mortgage, verify that there is an original executed [form HUD-11711A](#).
- (iv) Verify that the Issuer has signed the form, if in hard copy.
- (v) File the [form HUD-11711B](#), if in hard copy, and [form HUD-11711A](#), if required, in the Pool Master File.

If the document custodian determines, or has reason to suspect, that the certification by the Issuer is incorrect, the document custodian must refuse the [form HUD-11711B](#) until the certification issues have been resolved.

(c) Promissory Note

- (i) Verify that each item listed below is the same on both the promissory note and the related [form HUD-11706](#):
  - (A) Mortgagor/Borrower name(s);
  - (B) Principal amount;
  - (C) Interest rate;
  - (D) First payment date;

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- (E) Maturity date;
- (F) Monthly principal and interest payment; and
- (G) FHA project number including section of the act.

After verifying the consistency and accuracy of information on the [form HUD-11706](#) and the promissory note, the [form HUD-11706](#) will then be the source document to be used to verify information on all other documents, except for the project number on the FHA insurance endorsement. The project number on the [form HUD-11706](#) will be verified to and governed by the project number on the FHA insurance endorsement panel.

If a difference is identified by the document custodian in verifying the [form HUD-11706](#) information listed in [Part C, Section \(3\)\(c\)\(i\)](#) of this chapter to the promissory note, the issuer must correct or resolve the difference prior to certification by the document custodian.

- (ii) Verify that each signature on the note agrees with the name typed below the signature line on which it appears. There will be no signature variations allowed for officers of corporations, partnerships, etc.

If the note is executed by an attorney-in-fact, a copy of the power of attorney must be included in the file and must be executed on or before the date of the note. The copy of the power of attorney must be notarized. The power of attorney must have been an active and valid power at the time the note was executed.

- (iii) Verify that the complete chain of signed endorsements exists from the loan originator to the Issuer.

The endorsement by the Issuer should be on the note, be in blank, and should not include a date.

Allonges may be used as long as they are acceptable practice in the jurisdiction in which the mortgaged property is located. The allonge must be an original, must clearly reference the note, and must be firmly affixed to the note.

The Issuer is responsible for ensuring that each allonge meets the requirements of the jurisdiction in which the mortgaged property is located and is enforceable in the jurisdiction in which the mortgaged property is located. Allonges may not be used in jurisdictions where their use is prohibited.

- (iv) Verify that the Issuer endorsement in blank and without recourse was made by an authorized officer, by comparing the signature on the endorsement to the Resolution of Board of Directors and Certificate of Authorized Signers, [form HUD-11702](#) ([Appendix I-2](#) of the Guide) (“form HUD-11702”). It is the Issuer’s responsibility to ensure that the document custodian has a current copy of [form HUD-11702](#).

Ginnie Mae permits the use of facsimile signatures when placing endorsements on original notes and allonges, as long as the following conditions are met:

- (A) The use of facsimile signatures is acceptable under the laws of the relevant jurisdiction in which the property is located;

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(B) Such signatures are not prohibited under the Issuer's corporate charter and by-laws;

(C) The use of such signatures is authorized by a resolution duly enacted by the Issuer's board of directors; and

(D) Such signatures must be notarized when required by jurisdictional law.

Ginnie Mae requires a facsimile signature to be a reproduction of a manual signature that can be saved electronically or by engraving, imprinting, or stamping.

(v) Examine the promissory note for sections requiring notarization, acknowledgment, or witness. If required, verify that such sections have been completed.

(vi) Verify that each rider, allonge or addendum relates to and references the note. The note may reference the allonge, but such reference is not required. The rider, allonge or addendum must be an original if it requires a signature. If an allonge is required for a note correction, the corrective document must be filed with the original note.

If the rider, allonge or addendum references terms of prepayment, verify that each item below is the same on the rider and [form HUD-11706](#):

(A) Lockout term;

(B) Lockout end date;

(C) Prepayment premium period; and

(D) Prepayment end date.

(vii) Verify that the note has evidence of FHA insurance, signed by an FHA agent.

(viii) In the case of a missing note, the document custodian must request that the Issuer provide a copy of the note with original signatures by the mortgagors.

### (d) Agency Assignment

(i) Verify the Mortgagor/Borrower name.

(ii) Verify the presence of the legal description or a reference to the recorded mortgage.

(iii) Verify the assignment is executed by the Issuer to Ginnie Mae.

### (e) Intervening Assignments

(i) Verify that all intervening assignments follow a complete chain of title from the loan originator to the Issuer or MERS. If the loan was originated with MERS as the Original Mortgagee (MOM), an intervening assignment is not required as long as the loan remains registered with MERS.

Ginnie Mae will accept typographical errors and other minor mistakes on an intervening assignment if the recording reference is correct.

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- (ii) Verify that the mortgagor name on the assignment corresponds to the [form HUD-11706](#).
- (iii) Verify that each intervening assignment is a recorded original. A copy of the intervening assignment is acceptable only if the original has been lost and the copy clearly shows evidence of recordation. If an intervening assignment is presented that is not a recorded original or copy of an original, or has no evidence of recordation or of being transmitted for recordation, it must be accompanied by an individual mortgage legal opinion from qualified outside legal counsel stating that the assignment(s) is enforceable in the jurisdiction of the mortgage. The original opinion must be filed in the Issuer Master File with a copy in the loan file to which the opinion applied.

### (f) Security Instrument

- (i) Verify that each item listed below is the same on both the security instrument and the [form HUD-11706](#):
  - (A) Mortgagor/Borrower name;
  - (B) Principal amount; and
  - (C) Maturity date.
- (ii) Verify that the date of the security instrument is the same as or later than the date of the promissory note.
- (iii) A copy of the security instrument is acceptable only if the original has been lost and if the copy clearly shows evidence of recordation.
- (iv) Verify that a legal description appears on the security instrument or on an attachment to the instrument.
- (v) Verify that all signatures on the security instrument properly relate to the note.
- (vi) Examine the security instrument for the completion of any required notarization, acknowledgment, or witness.
- (vii) Verify that any rider or addendum properly relates to the security instrument.
- (viii) Verify that any rider or addendum is recorded and that the recorded information corresponds to the security instrument.

### (g) Mortgagee Title Insurance

- (i) Verify that an original title policy, where applicable, or a duplicate original signed (or countersigned) by the title company has been delivered that includes Schedules A, B, and Conditions and Stipulations or comparable information. A countersignature is acceptable on a title policy if the policy is issued by an agent of the insuring title company. A countersignature is not required if the title policy is issued by the insuring company. It is also acceptable for the title policy to carry facsimile signatures. A copy of the complete mortgagee title insurance policy is acceptable if the original is lost.
- (ii) Confirm that the policy has a jacket cover if the policy is invalid without a jacket cover.



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- (iii) Compare each of the following items, appearing on Schedule A of the title policy, to the security instrument:
    - (A) Date of title insurance policy, which must be the same as or later than the recording date on the security instrument. In some jurisdictions, however, the title insurance policy is delivered prior to recordation of the security instrument and may be dated earlier (Issuer must supply evidence that this provides effective coverage); and
    - (B) Amount of insurance coverage, which must be no less than the original amount of the security instrument. If the amount of title insurance is less than the original loan amount, the unpaid principal balance of the loan must be less than the title insurance coverage. This balance must also be supported by a loan history or a Ginnie Mae waiver letter to indicate why the insured amount is different.
  - (iv) Verify that each item listed below, appearing in the mortgage information clause to Schedule A, agrees with the security instrument:
    - (A) Mortgagor/Borrower name(s);
    - (B) Trustee name(s) if applicable; and
    - (C) Principal amount.
  - (v) Verify that a complete legal description is included on Schedule A of the title policy. The legal description on the title policy must match the legal description on the security instrument exactly.
  - (vi) Verify that the named insured under the title insurance policy is the name of the mortgagee and “its successors and assigns.” If the definition of “insured” did not include each ownership successor or assignee of the indebtedness secured by the mortgage, then the policy must be accompanied by an endorsement to the Issuer as the mortgagee. All standard ALTA policies include each successor in ownership of the indebtedness secured by the mortgage in the definition of “insured.”
  - (vii) If a Torrens certificate or title abstract has been provided, verify that a legal opinion from qualified outside legal counsel, prepared at or after the recordation of the security instrument, has been provided which documents the acceptability of this evidence of title in the jurisdiction. Procedures in [Part C, Section \(3\)\(g\)\(i\)](#) through [Part C, Section \(3\)\(g\)\(vi\)](#) should be modified appropriately if a Torrens certificate or abstract of title is used.
- (h) Performance Bond
- (i) Verify that the performance bond is an original.
  - (ii) Verify that Ginnie Mae is named on the bond either by assignment/endorsement/rider as an insured party/obligee.
  - (iii) Verify that, for any assignment/endorsement/rider, the surety has provided written consent.
  - (iv) Verify that the bond will not expire prior to the maturity of the securities (i.e., the last payment due date per the construction contract).



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- (v) As an alternative to a performance bond, a-Completion Assurance Agreement is acceptable. Verify the collateral backing the agreement. If a letter of credit is used, it must be transferred to Ginnie Mae in a format similar to [Appendix VI-3](#) of the Guide. Any assignment must evidence the surety's written consent. No personal indemnity agreement is permitted.
- (i) Uniform Commercial Code (UCC1) Forms
  - (i) Verify that UCC forms or other security instruments evidence recordation or perfection (filing) with the secretary of state or other appropriate office with jurisdiction, if required.
  - (ii) Verify that personal property is identified as "all articles of personal property owned by the mortgagor now or later attached to or used on or about the mortgaged property."
- (j) Assignments of Uniform Commercial Code (UCC3) Forms
  - (i) Verify that there is an assignment to Ginnie Mae of the UCC forms in recordable or perfectible form, but unrecorded or unperfected. "Recordable form" means an executed but unrecorded assignment to Ginnie Mae.
  - (ii) Verify the name(s) of the mortgagor(s)/borrower(s).
  - (iii) Verify the presence of a reference to county record books in which the UCC forms are recorded, and must be executed by a corporate officer of the Issuer.
- (k) Survey
  - (i) Verify the survey is applicable to the pooled mortgage.
- (l) Surveyor's Report
  - (i) Verify that the date of the surveyor's report is no later than the date of the note.
  - (ii) Verify that the property description in the surveyor's report is the same as the description in the security instrument.
  - (iii) Verify that the description of easements and encroachments in the surveyor's report agree with the description in the title policy.
- (m) FHA Firm Commitment
  - (i) Verify that the commitment is an executed copy.
  - (ii) Verify that the commitment pertains to the property as described in the security instrument.
  - (iii) Verify the commitment has been signed by HUD, the Mortgagor, and the Mortgagee.
- (n) Assignment of FHA Firm Commitment, if applicable
  - (i) If the Issuer did not originate the loan, an original assignment of firm commitment must be executed from the Mortgagee on the commitment to the Issuer.
  - (ii) Verify that the assignment pertains to the property as described in the security instrument.

(o) Building Loan Agreement

- (i) Verify that the agreement is an executed original.
- (ii) Verify that the property described in the building loan agreement is the same as the property description in the security instrument.

(p) Construction Contract

- (i) Verify that the contract is an executed copy.
- (ii) Verify that the property described in the construction contract is the same as the property description in the security instrument.

**Section 4. Document Custodian's Certification**

The document custodian must date and sign the certification on the [form HUD-11706](#) (in hard copy or electronically) and must identify the name, address, and Ginnie Mae ID number of the document custodian and the name and title of the officer who signed the certification.

The document custodian is required to submit the certified original [form HUD-11706](#) directly to the PPA via GinnieNET or hard copy. A copy of the certification must be placed in the Pool Master File.

Loan files that have been released for a non-liquidation reason under reason code 6 and are returned to the document custodian after certification of the pool must meet the certification standards for the pool. Loan files or documents released to an Issuer with a non-liquidation reason under release code 6 must be returned to the document custodian within 90 days. When a loan file or document has been released for more than 90 days, it is overdue for return to the document custodian. The document custodian must notify the Issuer of overdue documents or loan files after 90 days. The notification must be in writing and documented in the inventory or file. If the loan file or document is overdue by 180 days, the document custodian must notify Ginnie Mae's Office of Issuer and Portfolio Management (see Addresses), and the affected pools will be considered decertified until the loan file has been corrected.

**PART D. RECERTIFICATIONS**

Recertification procedures are required if there is a change in Issuer or document custodian responsibilities for a pool. The recertification is required to assure Ginnie Mae that the required intervening assignments have been recorded and filed with the document custodian and that the notes have been properly endorsed for a transfer of Issuer responsibility. The recertification also confirms that the required loan documents have been received by the document custodian and meet Ginnie Mae's certification standards. For pools related to a transfer of document custodian or Issuer responsibility, recertification must be performed within twelve (12) months of the effective transfer date.

**Section 1. Recertification Procedures**

- (a) Verify that all required pool and loan documents are present and meet the minimum review standards required under [Part C, Section \(3\)\(a\)](#) through [Part C, Section \(3\)\(p\)](#).

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- (b) [Form HUD-11711B](#) is not required for recertification if the pool was transferred to a new Issuer and is more than three years old. If the pool is less than three years old and has been transferred, the new Issuer is required to obtain forms [HUD-11711B](#) (hard copy or electronic) and [11711A](#) (if required) from the original Issuer. If forms [HUD-11711B](#) and [11711A](#) cannot be obtained, the new Issuer must obtain a waiver letter from Ginnie Mae's Office of Issuer and Portfolio Management (see Addresses);
- (c) If there has been a change in Issuer, verify that there has been a recorded assignment of the mortgage (except for loans registered with MERS);
- (d) If there has been a change in Issuer, verify that there have been updated endorsements on the promissory note;
- (e) Verify that no [form HUD-11708](#) with a non-liquidation release code is included in the loan file and the pool Master File in the place of the promissory note;
- (f) Verify that the [form HUD-11706](#) (form HUD-11721 prior to January 1, 1996) is maintained in the Pool Master File;
- (g) If recertifying via hard copy, verify that the Issuer has prepared and delivered to the document custodian an original recertification page to be attached to copies of the original [form HUD-11706](#):
  - (i) If there has been a change in Issuer, verify that the recertification page of the [form HUD-11706](#) contains the name, ID number, address, and signature of the new Issuer.
  - (ii) Sign the reverse side of the recertification page of the [form HUD-11706](#), recertifying that all pool and loan documents have been received. The document custodian's name, address, Ginnie Mae document custodian number and the Issuer's pool number all must all be included on the [form HUD-11706](#).

The document custodian is required to submit the recertified [form HUD-11706](#) directly to the PPA via GinnieNET or hard copy. A copy of the recertification must be placed in the Pool Master File.

Loan files that have been released for a non-liquidation reason under reason code 6 and are returned to the document custodian after recertification of the pool must meet the certification standards for the pool. Loan files or documents released to an Issuer for a non-liquidation reason under reason code 6 must be returned to the document custodian within 90 days. When a loan file or document has been released for more than 90 days, it is overdue for return to the document custodian. The document custodian must notify the Issuer of overdue documents or loan files after 90 days. The notification must be in writing and be documented in the inventory or file. If the loan file or document is overdue by 180 days, the document custodian must notify Ginnie Mae, and the affected pools will be considered decertified until the loan file has been corrected.

### PART E. UPDATE OF LEGAL OPINIONS

All blanket legal opinions from qualified outside legal counsel must be verified or updated the earlier of every twelve (12) months or at the time of change in applicable laws. Such updated opinions will only apply to transactions that occur after the changes in law. The Issuer is responsible for updating legal opinions and providing them to the document custodian.