



HOMEOWNERSHIP PROGRAM SELLING GUIDE



Homeownership Division

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SECTION 1 – GENERAL POLICIES

1.01 Consistent with Mortgage Purchase Agreement

This guide is intended as an instructional tool to assist Lending Institutions that originate and sell loans to the North Dakota Housing Finance Agency (Agency). It is intended to clarify and expand terms, covenants, conditions, and provisions of the Mortgage Purchase Agreement (MPA), as amended. This guide does not constitute a contract between the Agency and Lending Institutions and, if there are inconsistencies or discrepancies between this Guide and the MPA, the MPA shall govern.

1.02 Amendments and Directives

This Selling Guide may be amended or supplemented by the issuance of an Update or Program Directive and page revisions that are effective as of the date of issuance of such revisions or supplements.

1.03 Eligible Lending Institutions

To be eligible to participate in the Program, a lender must be a Lending Institution as defined in the MPA and meet the following qualifications.

DEFINITIONS

A Bank/Credit Union Lender is a lending institution that is regulated by and in good standing with its applicable federal and/or state banking/credit union regulatory agency.

A Non-Bank/Non-Credit Union Lender is any other institution actively engaged in mortgage lending in North Dakota. Approval of a Non-Bank Lender is strictly at the Agency's discretion and the Agency reserves the right to waive any of the Non-Bank Lender qualifications listed below.

ELIGIBILITY QUALIFICATIONS APPLICABLE TO BANK/CREDIT UNION LENDER

1. Must maintain an origination office within North Dakota.
2. Must have a blanket fidelity bond and errors & omissions (E&O) insurance coverage each in a minimum amount of \$300,000 in effect at all times with the Agency listed as a certificate holder.
3. Must have in place and can demonstrate enforcement of a Quality Control Plan (QCP) acceptable to the Agency.
4. Must complete the Agency's lender training.

ELIGIBILITY QUALIFICATIONS APPLICABLE TO NON-BANK/NON-CREDIT UNION LENDER

1. Must maintain an origination office within North Dakota.
2. Must have operated an origination office in North Dakota for at least two years prior to applying to be a Participating Lender and have originated at least \$6,000,000 annually during this period.
3. Must originate loans using own funds or have a warehouse line of credit (LOC) of a minimum of \$1,000,000.
4. Must originate and successfully sell a minimum of ten loans per year to the Agency.
5. Must maintain, at all times, a minimum net worth of \$500,000 if enrolled under the Agency's Credit Review Service (CRS). If not using this service must maintain, at all times, a minimum net worth of \$1,000,000.
6. Must have a blanket fidelity bond and errors & omissions (E&O) insurance coverage each in a minimum amount of \$300,000 in effect at all times with the Agency listed as a certificate holder.
7. Must have in place and can demonstrate enforcement of a Quality Control Plan (QCP) acceptable to the Agency.

8. Must provide, annually, documentation indicating compliance with the National Mortgage Licensing System (NMLS) unless specifically exempted from the NMLS and that it is in good standing with the North Dakota Department of Banking and Financial Institutions.

Must provide the Agency with the NMLS identification number of each employee that is subject to the NMLS.

9. Must annually provide audited financial statements or acceptable alternatives and additional reports as determined solely by the Agency to the Agency.
10. At its discretion, the Agency may require enrollment in the CRS for all loans originated for sale to the Agency.
11. Must complete the Agency's new lender training.

Any Non-Bank/Non-Credit Union Lender deemed not in compliance with the previous criteria, and such noncompliance has continued for one year after such determination, shall be notified by the Agency that the Lender has one additional year to regain full compliance. At the end of the second year, if the noncompliance condition has not been cleared by the Agency, the Non-Bank/Non-Credit Union Lender shall be terminated from further participation.

1.04 Participation Documents

To become a Participating Lender, a Lending Institution will execute an MPA and a Servicing Release Agreement (referred to as the "Participation Documents"). If a Participating Lender wishes to service the Agency loans, see Section 1.18, Eligible Servicing Lender, for eligibility requirements.

The Participation Documents are not assignable by the Lender without the express written consent of the Agency.

If the Lender is not eligible to service or does not intend to service the mortgage loans it originates and sells to the Agency under the Program, it can either delegate servicing to another approved eligible Servicer or release servicing to the Agency. If servicing is released to the Agency, the Participating Lender will be paid, at the time the mortgage loan is purchased, a servicing release premium in an amount established by Program Directive.

1.05 Participation Fee

The Lender will include with its Participation Documents a one-time, non-refundable participation fee of \$500. This fee provides for the costs of processing the Lender's application to participate and initial set-up costs.

1.06 Purchase Conditioned on Sale of Bonds

The Agency represents that it will, to the extent permitted by law, continue to issue bonds to fund the Program so long as it is determined, in the sole opinion of the Agency, that there is a need and demand for the Program. It is understood that the Agency is under no obligation to purchase any mortgage loans unless and until it has successfully sold and delivered Bonds.

1.07 Lender Sole Owner of Mortgage Loan

The Agency will purchase mortgage loans from participating Lending Institutions only. The loan must be originated by and title to the loan must pass directly from a Lending Institution that has executed an MPA with the Agency. Subsidiaries and franchise branches cannot participate under an MPA executed by its parent institution.

1.08 Discrimination Prohibited

While participating under the Program, Lenders are prohibited from discriminating or permitting discrimination against any person or group of persons on the grounds of race, color, religion, sex, national origin, age, physical or mental handicap, or status with regard to familial status or public assistance in any manner prohibited by the laws of the United States or the State of North Dakota.

1.09 Agency Right to Refuse to Purchase Loan

The Agency has the right at all times to decline to purchase any mortgage loan that it determines, in its sole discretion, does not comply with the terms, covenants, conditions or provisions of the Program.

1.10 Underwriting Standards

The Agency requires all loans to be underwritten using the standards established by Fannie Mae, Freddie Mac, FHA, VA, or RD, whichever is applicable. The Agency does reserve the right to require additional or more restrictive underwriting standards than those that exist under Fannie Mae, Freddie Mac, FHA, VA, or RD. Participating Lenders will be notified of such additional or more restrictive requirements by Program Directives or Updates.

All loans must be underwritten using either DU, LP or GUS. A copy of the Automated Underwriting System findings must be submitted with the compliance package.

On conventional loans, the only risk class that will be acceptable is Approve (DU) or Accept (LP). If an Approve or Accept risk class cannot be achieved and the Lender still believes the loan should be approved, the loan must be submitted to the Agency for approval. Loans submitted for Agency approval must include **all** documentation pertinent to making an informed underwriting decision. The required documentation includes the Uniform Residential Loan Application, credit report, verifications of employment and deposits, and any other documentation addressing specific issues on the findings or feedback report, as well as, a report from the Lender's underwriter listing the compensating factors justifying why the loan should be acceptable. The Agency reserves the right to require a higher level of PMI coverage on loans not classified as Approve or Accept.

The Agency requires the Appraisal to be an Interior and Exterior Inspection.

The Agency will periodically review a sampling of the Participating Lender's underwriting decisions and does reserve the right to refuse to purchase any mortgage loan it believes was not underwritten in accordance with applicable underwriting standards. In addition, the Agency may perform post-purchase reviews of a percentage of all loans purchased. Loans found to be inconsistent with required underwriting standards will be subject to repurchase.

1.11 Standard File Documentation

Except as is provided by this Guide, the MPA, or Program Directive, Lenders will use the standard documentation required by Fannie Mae, Freddie Mac, FHA, VA, or RD when processing, underwriting, and originating loans for the Program. The Agency will accept, for underwriting purposes, alternative documentation that is standard for the loan insurer/guarantor. If such alternative documentation is not forthcoming, is incomplete, or the information available is insufficient to perform legitimate credit and compliance underwriting, standard documentation must be obtained. There are certain additional documents and modifications of standard documents that are required for determining mortgagor and Qualified Residence (Residence) eligibility. All forms are available under Selling Guide and Mortgage Loan Forms on the Agency's website.

1.12 Post-Origination Reporting Requirements

The selling Lender is responsible for all post-origination state and federal reporting requirements. These include, but are not limited to, Home Mortgage Disclosure Act (HMDA); Form 1098 reporting to the IRS and to the mortgagor(s) of interest and points collected prior to loan sale; and any other requirements of the Lender's regulatory agency.

1.13 Opinion as to Lender's Eligibility

The Lender will include with its Participation Documents an opinion from its counsel that recites that the Lender is an eligible Lender under the Program that has the legal authority to engage in the business contemplated in the Participation Documents and is not a party to any other agreement or arrangement that would conflict with its participation in the Program. The opinion must be on the Lender's counsel letterhead and must provide for the exact recitals contained in the Form of Opinion.

1.14 Obtaining Delegated Compliance Underwriting Authority

The Agency will grant limited authority to eligible Lenders to make eligibility determinations (referred to as "Compliance Commitments") on its behalf. Before granting a DCU designation, the Agency first must become comfortable that the Lender and its underwriter(s) have a substantial grasp of eligibility intricacies and documentation requirements for compliance underwriting. The Agency expects that it would take a minimum of two to three years of Program experience before this comfort level would be achieved. The decision to grant a DCU designation will be at the sole discretion of the Agency.

The DCU designation will be granted only to Lenders who otherwise qualify and have demonstrated they can accept the responsibilities for making eligibility determinations. Qualifying Lenders will be required to execute a Second Addendum to the North Dakota Housing Finance Agency 1994 Mortgage Purchase Agreement.

The Lender's underwriter(s) will be designated as a DCU. To be eligible, the individual underwriter must receive formal DCU training from the Agency. The first five loans underwritten by a new DCU will be considered test cases and must be submitted to the Agency for review prior to loan closing.

The DCU designation is considered a privilege. Both the Lender and its DCUs will be monitored for their ability and willingness to properly underwrite, document, and originate loans in accordance with the Agency's policies and guidelines. To maintain DCU status, the underwriter must attend any Agency required training and underwrite a minimum of five mortgage loans per year as a DCU. The DCU designation can be canceled at any time for less than acceptable performance.

Loans to be underwritten for compliance under this section will be handled in accordance with the provisions of Section 3.05 except for the following changes and additions:

1. The Compliance Application will be submitted to the Lender's DCU underwriter instead of to the Agency. Corrections, clarifications, or additions necessary for approval will come directly from the DCU.
2. Notice of approval, if applicable, will come from the DCU in the form of a DCU Compliance Commitment and Notice along with the DCU Commitment Addendum (available under Selling Guide and Mortgage Loan Forms on the Agency's website). The DCU will immediately forward a copy of the Approval to the Agency.

1.15 Lender Warranties

The Lender should carefully note the various warranties and representations required pursuant to the Participation Documents, Affidavits, and the Mortgage Submission Voucher (referred to as the "Purchase

Documents”). The Agency expressly relies on each Lender to satisfy each of these warranty and representation requirements at all times as they pertain to the Lender and the mortgage loan delivered for sale to the Agency.

The Agency will issue a written notice to the Lender if it determines, at any time after the mortgage loan has been purchased, that any warranty or representation made by the Lender has been breached or if it discovers a problem derived from the origination of the mortgage loan. The notice will specify the action that must be taken. If a mortgage loan cannot be corrected or if it is determined not to be eligible, the Agency will notify the Lender in writing of its obligation to repurchase the loan. Such repurchase will take place no less than 10 days, nor more than 60 days, from the date of the notice and in such amounts as described in the MPA and specified in such notice to repurchase.

The Lender will indemnify the Agency and hold the Agency harmless for any loss, damage and expenses that the Agency may sustain as a result of the withdrawal or reduction of either GMI or PMI, denial of any claim filed against the GMI or PMI, or demand by the GMI or PMI insurer for return of all or part of any claim or claims paid if such action is taken by the GMI or PMI due to an act or failure to act by the Lender. The only risk of loss, in the event a mortgagor fails to make payments on a Mortgage Note, assumed by the Agency and its bondholders is a loss in excess of GMI or PMI coverage.

1.16 Lender Suspension

A Lender may be suspended from further participation in the Program if, upon notice from the Agency as described in Section 1.15, the Lender refuses to take the corrective action or repurchase the loan as set out in such notice. The Lender can avoid suspension by either repurchasing the ineligible loan or if the loan is ineligible due to an act or omission by a third party, the Lender aggressively pursues a remedy available to the Lender against the third party. In the latter case, the Lender must agree in writing to indemnify the Agency for any loss resulting from the ineligibility **and**, if the mortgage loan is or goes into default, remit monthly principal and interest payments associated with the mortgage loan to the Agency during the course of such action.

A suspension action will commence with the Agency issuing a written notice of intent to suspend to the Lender. The Lender will have 30 days to respond to the Agency’s notice. With or without a response from the Lender, the proposed suspension action will be taken before the Agency’s Advisory Board for final ratification at its next regularly scheduled meeting following the expiration of the 30-day response period. The Lender may appear before the Advisory Board at the meeting the suspension is being heard. The decision by the Advisory Board will be final. Unless otherwise specified by the Advisory Board, the suspension will remain in effect until the cause for such action has been corrected.

During the period of time from the Agency’s notice to when the Advisory Board renders its final decision, the Agency will continue to honor any Reservations that were pending as of the date of the notice. However, during this time, no additional Reservations will be available to the Lender. During a period of suspension, the Agency will not approve additional Requests for Reservations, issue any Compliance Approvals, nor purchase any mortgage loans regardless of the effective date of the Reservation.

A Lender may also be subject to suspension and revocation to participate in the Program if it at any time fails to meet the ongoing requirements of an Eligible Lending Institution, as defined in Section 1.03.

1.17 Correspondent Lender Relationship

A Lender may enter into a relationship with a correspondent lender to buy eligible mortgage loans originated by the correspondent lender for subsequent purchase by the Agency under the Program. Such mortgage loans must be underwritten and originated under the direct supervision and direction of the Lender.

Prior to the Agency purchasing any third-party originated loans, both the Lender and correspondent lender must execute and deliver to the Agency the Third Addendum to the North Dakota Housing Finance Agency 1994 Mortgage Purchase Agreement and receive specific approval from the Agency.

1.18 Servicing NDHFA Loans

To become a Servicing Lender, a Lending Institution will execute an MPA and a Servicing Agreement, the Participation Documents.

To be eligible to service loans for the Agency, the Lending Institution:

1. Must be an approved Participating Lender under the Program as defined in the Mortgage Purchase Agreement and this guide.
2. Must be an approved Lender by the loan insurer/guarantor for the mortgage loan types to be serviced.
3. **Must have a servicing operation located within the state of North Dakota and must be staffed with personnel dedicated to servicing single-family residential real estate loans (all mortgage loans must be serviced at the North Dakota servicing center).**
4. Must currently be servicing a portfolio of single-family residential real estate loans at least equal to the lesser of three times the portfolio it proposes to service for the Agency or an aggregate outstanding principal balance of \$10,000,000.00.
5. Must demonstrate that its average delinquency rate for single-family residential real estate loans over the previous six months does not exceed the most recently published Mortgage Bankers Association statistic for North Dakota.
6. Must meet the minimum net worth requirements of its regulatory agency. If not subject to a regulatory agency, then must have at least a three percent capital to asset ratio.

The Agency, at its sole discretion, can waive any of the above requirements when approving a proposed Lending Institution as an Eligible Servicer.

SECTION 2 – RESERVED FOR FUTURE USE

SECTION 3 – LOAN ORIGATION

Highlights

- Agency's HUD mortgagee number: 3624209990
- Agency's RD Lender ID number: 45-0371338 Branch # 001
- Note Endorsement: "Payable to the order of the Industrial Commission of North Dakota, acting as the North Dakota Housing Finance Agency, without recourse."
- Assignment of Mortgagee Grantee: "The Industrial Commission of North Dakota acting as the North Dakota Housing Finance Agency."

3.01 User Registration

To register as a Participating Lender:

1. From the Agency's homepage, www.ndhousing.nd.gov, click "Login". Then choose, "Sign up now."
2. On the Set-up Online Access page select "Participating Lender."
3. Register by entering your name, email address, phone number and a password (minimum length is five characters). Click "Submit."
4. You will receive a confirmation email indicating that you are registered.

3.02 Reservation (Lock)

Reservations are made on the Agency's website, www.ndhousing.nd.gov. Note that before any reservations can be made your institution must be a Participating Lender and individuals must register for access per Section 3.01.

To make a Reservation:

1. Login to the Agency's website.
2. From the Lender Dashboard, click on "New Loan Reservations."
3. Click on the appropriate loan program and loan type (Government or Conventional) – "FirstHome," "HomeAccess," or "North Dakota Roots."
4. Complete the applicable information, noting that fields with an asterisk are required, and click "Submit."
5. You will then be able to review the information that you have entered. You will have two choices:
 - a. "Modify Reservation" – which will take you back into the reservation to make changes and then you will click on "Submit" again and you will have the chance to review again.
 - b. "Submit Reservation" - which will submit the reservation to the Agency.
6. No documentation is required to be sent to the Agency.
7. The Agency will notify the Lender of Reservation approval by sending the Compliance Application (see Section 3.05) with Sections I and II completed.

3.03 Terms of Reservation

Loan must be Compliance approved and closed within the Reservation term.

- Existing Properties: 60 days
- New Construction: 300 days

For an extension of the Reservation period contact the Agency to request and obtain pricing/extension fee options. The maximum extension is 30 days.

The reservation follows the borrower not the property, if a property change occurs contact the Agency with the updated information. If a Reservation is canceled, the borrower cannot relock with the Agency for 45 days.

Rate reductions will not be permitted once a rate is locked.

Reservation Alert report warns a Lender of any Reservations due to expire, this report will be generated five business days prior to the expiration date of a Reservation for each status category. Alerts are sent each morning.

Refer to the Program Eligibility Matrix (available under Selling Guide and Mortgage Loan Forms on the Agency's website).

3.04 Credit Underwriting

The Agency requires all loans to be underwritten using the standards established by Fannie Mae, Freddie Mac, FHA, VA, or RD, whichever is applicable. The Agency will rely on the Participating Lender to underwrite the loans in accordance with such standards. Underwriting applies to creditworthiness, affordability, and property evaluation and standards. The Agency does reserve the right to require additional or more restrictive underwriting standards than those that exist under Fannie Mae, Freddie Mac, FHA, VA, or RD. Participating Lenders will be notified of such additional or more restrictive requirements by Program Directives or Updates.

All loans must be underwritten using either DU, LP or GUS. A copy of the Automated Underwriting System findings must be submitted with the compliance package.

On Conventional Loans, the only risk class that will be acceptable is Approve (DU) or Accept (LP). If an Approve or Accept risk class cannot be achieved and the Lender still believes the loan should be approved, the loan must be submitted to the Agency for approval. Loans submitted for Agency approval must include **all** documentation pertinent to making an informed underwriting decision. Documentation would include the 1003 Application, credit report, verifications of employment and deposits, and any other documentation addressing specific issues on the findings or feedback report, as well as a report from the Lender's underwriter listing the compensating factors justifying why the loan should be acceptable. The Agency reserves the right to require a higher level of PMI coverage on loans not classified as Approve or Accept.

The Agency requires the Appraisal to be an Interior and Exterior Inspection.

The Agency will periodically review a sampling of the Participating Lender's underwriting decisions and does reserve the right to refuse to purchase any mortgage loan it believes was not underwritten in accordance with applicable underwriting standards. In addition, the Agency may perform post-purchase reviews of a percentage of all loans purchased. Loans found to be inconsistent with required underwriting standards will be subject to repurchase.

3.05 Obtaining Agency Compliance Approval

- Compliance Approval determines program eligibility for the borrower(s) and the property.
- Lenders must receive Compliance Approval from the Agency before closing a loan.
- The Agency is not obligated to purchase a loan without a Compliance Commitment.

The Agency's commitment to purchase a loan is contingent upon the following:

1. No contrary documentation or information regarding the eligibility of the proposed mortgagor(s), Residence is presented in the closed loan package.

2. The terms of the closed loan have not changed from those presented to the Agency in the Compliance Application package.
3. The closed loan complies with all the terms and conditions of the Purchase Documents.

Compliance Application:

- Review Section I and make any corrections before sending it to the Agency along with copies of the documents described in Section III.
- If any changes occur after the Compliance Application package is submitted, the Lender should immediately notify the Agency.
- The documents described in Section III must be completed, signed and notarized, if required, prior to inclusion in the Compliance Application package being submitted.

Compliance Suspension:

- If Compliance Approval cannot be given, the Agency will notify the Lender of required corrections or additional information needed with this document.

Compliance Commitment:

- When Compliance Approval is given, this form is sent to the Lender.
- Item 3 under the Commitment to Purchase section will specify conditions of the commitment. These conditions are to be completed and supporting documentation included in the final loan package delivered to the Agency.
- If the date of the loan closing, in Section I, is delayed, the Lender must notify the Agency.
- The Lender has 15 days from the loan closing date to deliver the complete loan origination package.

3.06 Obtaining Delegated Compliance Underwriting Approval

NOTE: You must be an approved DCU lender to utilize this option.

Loans that qualify for underwriting under this section are limited to those loans being originated by a DCU Lender and meet the criteria defined in Section 1.14. All other loans will be underwritten in accordance with Section 3.05. In addition, loans subject to this section must comply with all the provisions of the Program Eligibility Matrix (available under Selling Guide and Mortgage Loan Forms on the Agency's website).

Loans to be underwritten for compliance under this section will be handled in accordance with the provisions of Section 3.05 except for the following changes and additions:

1. The Compliance Application will be submitted to the Lender's DCU underwriter instead of to the Agency. Corrections, clarifications, or additions necessary for approval will come directly from the DCU.
2. Notice of approval will come from the DCU in the form of a DCU Compliance Commitment and Notice along with the DCU Commitment Addendum, if applicable, (both available under Selling Guide and Mortgage Loan Forms on the Agency's website). The DCU will immediately forward a copy of the Approval to the Agency.

3.07 Originating a FirstHome Loan

- The mortgage loan is originated in the name of the Participating Lender.
- The Lender is responsible for providing all the required disclosures.
- The Lender is responsible for using the most current standard loan documentation, recording all legal documents, obtaining the appropriate mortgage insurance/guarantee certificate, evidencing good title and obtaining a valid first lien on the Residence.
- The loan proceeds are disbursed by the Lender using the Lender's own funds.

In cases where there are repairs required by the appraiser, mortgage insurer/guarantor or due to a casualty loss, before loan closing, the Lender should ascertain:

1. Whether such repairs have been completed.
2. Whether a repair escrow is permitted by the mortgage insurer/guarantor.
3. Ensure the repair escrow meets the mortgage insurer/guarantor's requirements.

In cases where a casualty loss has occurred and repairs have not been completed prior to loan closing, the Agency requires an escrow for completion of such repairs in accordance with the following:

1. If an insurance company has adjusted a casualty loss and there is a contractor's bid for repairs, the amount of the escrow for completion must be equal to the greater of the contractor's bid or the mortgage insurer/guarantor requirement.
2. If an insurance company has adjusted a casualty loss and there is no contractor's bid, the amount of the escrow for completion must be equal to the greater of the amount of the adjustor's claim plus the deductible or the mortgage insurer/guarantor requirement.
3. If a casualty loss has not been adjusted by the insurance company, the amount of the escrow for completion must equal the greater of 1.5 times a reasonable estimation of damages and cost of repairs or the mortgage insurer/guarantor requirement.
4. The buyer(s) or anyone acting on behalf of the buyer(s) cannot fund the escrow for completion.

If the Lender is unable to obtain the insurance/guarantee certificate in a reasonable time, as determined by the Agency, the loan may be subject to indemnification or repurchase according to the terms of the Mortgage Purchase Agreement.

For more information regarding loan origination, see Section 6, Eligible Mortgage Loan.

3.08 Origination File Delivery

- Instructions and required documentation for this delivery is on the Mortgage Submission Voucher (available under Selling Guide and Mortgage Loan Forms on the Agency's website).
- Only one ORIGINAL document is required which is the Note.
- The documents listed on the Mortgage Submission Voucher must be delivered to the Agency within 15 days of loan closing.
- If the loan origination package contains documents that are not listed on the Mortgage Submission Voucher but were required by the Lender, the Agency or the loan insurer/guarantor during the credit or compliance underwriting process, these documents must be included in the loan origination package. List these documents under "Other" on the Mortgage Submission Voucher.
- Do not leave any blanks on the Mortgage Submission Voucher.
- If a document does not apply to this loan, cross the item out.

- All documents in the loan origination package are to be correct and fully completed with all required signatures, notary, etc.

The Lender is responsible for notifying the loan insurer/guarantor when a loan is purchased by the Agency, when servicing is released to the Agency and executes all required documentation.

- **Agency's HUD mortgagee number: 3624209990**
- **Agency's RD Lender ID number: 45-0371338 Branch # 001**

The Lender must also provide evidence of the following:

1. The hazard insurance and flood insurance binders and/or policies show the correct mortgagee clause at the time of loan closing (see Section 7.05 for detailed instructions).
2. If incorrect at the time of the loan closing, the Lender is obligated to notify the insurance company and provide a corrected binder and/or policy to the Agency.
3. If servicing was released to the Agency, the Lender must also submit evidence of a notice to the flood certification vendor to transfer the Life of Loan Protection to the Agency. Provide an updated Flood Certification reflecting the transfer.

Condominium: provide the Master Policy Declaration page.

Certain documents (referred to as "Final Documents") may not be available for inclusion in the loan origination package being delivered to the Agency.

The Final Documents include, but are not limited to:

- The recorded Mortgage.
- The recorded Assignment of Mortgage.
- The final Title Policy.
- The plot drawing or certification.
- The mortgage insurance/guarantee certificate.

The recorded documents must be submitted to the Agency within 90 days of loan closing.

3.09 Loan Purchase

- Loan purchase date: Wednesdays
- Purchase date falls on a holiday: the purchase date will be the preceding business day unless otherwise specified by the Agency.
- Mortgage Note: only original document required.
- Note Endorsement: **"Payable to the order of the Industrial Commission of North Dakota, acting as the North Dakota Housing Finance Agency, without recourse."**
- If an **Allonge** is used to endorse the Note to the Agency, the Agency requires specific items to be identified on the Allonge:
 - The Agency's loan number.
 - Loan amount.
 - Note date.
 - Borrower name(s).
 - Property address.
 - Endorsement with your institution's name, consistent with the name on the Note.
 - Authorized person's name and title typed.

- Authorized person's signature.
- The Mortgage is assigned by using a standard "Assignment of Mortgage" form. The Agency's name may not be abbreviated in any form. Assignment of Mortgagee Grantee: **"The Industrial Commission of North Dakota acting as the North Dakota Housing Finance Agency."**

Notice: NDHFA does not participate with MERS. If a MERS mortgage is executed, NDHFA requires a second Assignment of Mortgage from MERS back to the lender. Additionally, we will need a statement from the lender, on their official letterhead, confirming that the MERS assignment was made in error. Proof of the MIN # being inactive must also be provided.

For any necessary corrections to the Mortgage, Assignment of Mortgage, or Declaration of Lien Interest, the original document must be corrected and re-recorded. NDHFA does not accept corrective documents.

Please ensure that the vesting information listed on the Mortgage matches exactly when referenced in the Assignment of Mortgage.

The Mortgage Submission Voucher/Lender Certification are to accompany all mortgage loans delivered for purchase. The Lender Certification represents its warranty that the mortgage loan complies with the terms and conditions of the 1994 Mortgage Purchase Agreement.

Once it has been determined the file is complete and without errors, the loan will be purchased on the next scheduled purchase date. If the required documentation and information is not sufficient to purchase the mortgage loan every effort will be made to correct the deficiencies, so the mortgage loan can be purchased without delay. If it is determined that the Mortgage Note or Mortgage requires corrections, the purchase will have to be delayed until the corrections are completed. **If the mortgage loan cannot be approved for purchase within 15 days of when the file has been reviewed for purchase, a late fee of 0.5 percent of the loan amount will be assessed for every 15 days it is late.**

Loans are purchased at the full mortgage amount. If the borrower used the 0% origination fee rate option, the amount the Agency will pay to the Lender will be 150 basis points of the mortgage amount, plus accrued interest, minus late delivery fee, extension fee or other assessment. If the borrower used the 1.5% origination fee rate option, the lender will retain the origination fee as compensation, minus accrued interest, any late delivery fee, extension fee or other assessment. The amount of the servicing release premium (75bps of mortgage amount) will be included, and the amount of all escrow funds collected at closing will be deducted. **We require all payments to be sent to our office as soon as the lender receives them. This would include any principal reduction.**

Lenders are notified of loans to be purchased by a Loan Funding Sheet showing a breakdown of the amount to be purchased. The Lender will receive notice of purchase the day before the purchase occurs and the Loan Funding Sheet is also available on the Agency's website. The Lender should notify the Agency of any special routing instructions for this notice.

The loan purchase transaction is accomplished by wire transfer from the Agency's Trustee. It is important that the Agency has the Lender's current wiring instructions, so the loan purchase is not delayed. Loans cannot be purchased without such instructions.

3.10 Final Documents

The Agency will perform a post-purchase audit and notify the Lender of corrections and/or additional documentation required on an Outstanding Documentation Notice. A lender can monitor their progress in providing final documents by viewing their "Final Documents Report" on the Agency website.

All final documents must be submitted to the Agency within 90 days of loan closing.

Exception: when repairs must be escrowed during winter months for completion in the spring or summer. These situations must be closely monitored so the required repairs are completed within the period specified in the HUD Mortgagee Assurance of Completion Agreement or the Repair Escrow Agreement.

3.11 Loan Repurchase

Mortgage loans that have been purchased without the loan origination package in accordance with this section are subject to repurchase upon the occurrence of any of the following:

1. The recorded Mortgage and Assignment of Mortgage are not delivered within 90 days of loan closing.
2. The final Title Policy and plot certification are not delivered within 90 days of loan closing.
3. The mortgage insurance/guarantee certificate is not delivered within 90 days of loan closing.

Notwithstanding the above, the Agency recognizes some delays will occur beyond the Lender's control. Therefore, extensions can be granted on a case-by-case basis upon specific request from the Lender.

3.12 Property Tax Issues

Several communities in North Dakota offer property tax abatements on newly constructed homes, and existing properties may have the North Dakota Homestead Property Tax Credit in place. These property tax programs can cause issues with properly escrowing for property tax payments. Another property tax issue can be on newly constructed homes. The property taxes are based on the vacant lot until the property is fully assessed by the City or County.

All loans purchased by the Agency must show the full/estimated amount being collected for property taxes. The fully/estimated property tax amount must be used for credit qualifying. Any loan not using the fully/estimated property tax amount for credit qualifying or not collected for the first year's taxes will not be purchased by the Agency.

Failure to set up the tax payment at the correct amount could cause a significant increase in the borrower's payment creating a payment hardship for the borrower. The amount of the first year's tax estimate should be the amount used to set up the payment.

In the case of servicing released to the Agency, the Estimate of Real Estate Taxes on New Construction and/or Homestead Credit (available under Selling Guide and Mortgage Loan forms on the Agency's website) must be provided to the mortgagor.

New Construction: When a property is newly constructed the property taxes are most times estimated on the vacant lot prior to being fully assessed. This estimate is well below what the fully assessed value will be for the property. The fully assessed estimate can be achieved by calling the local Assessor's Office. The Assessor's Office will give an estimate of the fully assessed value based on the appraised value of the property.

- The Estimate of Real Estate Taxes on New Construction and/or Homestead Credit disclosure is to be completed and delivered to and signed by the borrower(s) at loan closing and a copy included in the loan file/Initial Delivery package submitted before funding.
- If a new property is fully taxed, indicate such on an Estimate of Real Estate Taxes form signed by a lender representative.

Property Tax Abatement: A property tax abatement is a temporary reduction of property taxes available on newly constructed homes offered through local government entities.

- The property is typically not fully assessed for property tax and special assessments at the time of loan closing.
- The Estimate of Real Estate Taxes on New Construction and/or Homestead Credit disclosure is to be completed and delivered to and signed by the borrower(s) at loan closing and a copy included in the loan file/Initial Delivery package submitted before funding.
- If a new property is fully taxed, indicate such on an Estimate of Real Estate Taxes form signed by a lender representative.

Homestead Property Tax Credit: a North Dakota property tax credit that reduces the property taxes of individuals who are 65 years of age or older or individuals who are permanently and totally disabled.

- Available to the selling owner/occupants only and may not apply to subsequent buyers.
- Since this type of credit(s) must be applied for each year, do not base the tax escrow payment on a credit, unless and until it is confirmed one will be in effect for the mortgagor.
- If the buyer of the home is not eligible for the credit, the property tax escrow amount should take into account the full amount of property tax without the tax exemption.
- The Estimate of Real Estate Taxes on New Construction and/or Homestead Credit is to be used to disclose to the buyer of the Residence the estimated property tax without the credit.

Parcel Splits: Mortgage loans on newly constructed or rural properties may involve parcel splits. In some jurisdictions, parcel splits are done only once a year. Because of this, the handling of the pro-ration of taxes and the payment of the taxes for that year should be addressed prior to closing to eliminate any confusion as to who should pay taxes when they are due.

SECTION 4 – ELIGIBLE MORTGAGOR

4.01 First-Time Homebuyer

All eligibility requirements of this section must be determined on the mortgagor, mortgagor's spouse, and any other person who is expected both to live in the Residence being financed and to be secondarily liable on the mortgage.

To be an Eligible Mortgagor under the Program, an individual(s) must be a First-Time Homebuyer. A First-Time Homebuyer is someone who has not had a prior ownership interest in such person's **principal** Residence (other than a mobile home that was not permanently fixed to real property) at any time within the three-year period ending upon the date of the closing of the mortgage loan.

The three-year requirement is waived when using the following programs:

- Home Access Program (see Section 14).
- Major Home Improvement Program (see Section 9).
- North Dakota Roots Program (see Section 15).
- Targeted Area Loan (see Section 4.07).

A "present ownership interest" **includes**, but is not limited to:

- A fee simple interest.
- A joint tenancy, a tenancy in common, or tenancy by the entirety.
- The interest of a tenant shareholder in a cooperative.
- A life estate.
- A land contract or contract for deed (a contract pursuant to which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until sometime later).
- A homestead interest in a property.
- An interest held in trust for the proposed mortgagor (whether or not created by the proposed mortgagor) that would constitute a present ownership interest if held directly by the proposed mortgagor.

A "present ownership interest" **excludes**, but is not limited to:

- An ordinary lease, with or without an option to purchase.
- The interest of a buyer under a standard residential purchase contract.
- An expectancy to inherit property, a remainder or reverted interest.
- An ownership interest in a Residence that is not occupied as a principal Residence, e.g., a vacation home or rental property.
- A mobile home not permanently attached to real property.

Unique ownership interests:

1. **Mobile/Manufactured homeownership:** is considered a prior interest in a principal Residence **only** if the such home was permanently attached to the land owned by the proposed mortgagor(s) within the last three years.
2. **Homestead interest:** in a previous property and/or a divorce situation, the Lender must review the title and deed pertaining to the previous property and the divorce decree to determine that the individual did not have an equitable interest in the title to the property.

3. **Pending divorce:** unless and until a legal separation agreement has been executed, the estranged spouse must meet all requirements of this section. Thus, the Lender must obtain all required compliance documentation attesting to the eligibility of the estranged spouse. In addition, an estranged spouse is required to sign the mortgage and other Program documents if the divorce is not final.

To verify that the First-Time Homebuyer requirement is met:

1. Borrower(s) must execute the Residency and Income Statement.
2. Credit reports, federal income tax returns and any other applicable documents are examined.
3. If pertinent, the Lender shall contact the landlord(s) or other persons identified in the proposed mortgagor's application to assure the accuracy of such information.

4.02 Income Limits

HUD annually publishes median income limits for North Dakota, and these are the basis for the Program limits. The mortgagor's income cannot exceed these limits. Current income limits are available online, [FirstHome Income Limits](#).

"Annual Income" means the projected gross Annual Income for the 12-month period after the date of loan closing from all sources and before taxes or withholdings. The income that must be counted when determining Annual Income includes:

1. The proposed mortgagor.
2. A proposed mortgagor's spouse.
3. Any other person who is expected both to live in the Residence being financed and to be secondarily liable on the mortgage.

Annual Income includes, but is not limited to:

- Gross pay from employment.
- Continuous and ongoing income from overtime, part-time employment, and bonuses dividends, interest.
- Royalties.
- Pensions.
- Veterans Administration benefits.
- Net rental income.
- Alimony.
- Child support.
- Public assistance.
- Sick pay.
- Social security benefits.
- Unemployment compensation.
- Trust income.
- Income received from business activities or investments.

Annual Income used for determining eligibility can be less than or greater than the income used for credit/affordability underwriting purposes. Annual Income may include types of income not considered as qualifying income for credit/affordability underwriting purposes.

To determine Annual Income eligibility, the Lender shall complete the Compliance Worksheet (available under Selling Guide and Mortgage Loan Forms on the Agency's website) following the instructions

contained therein. The following are guidelines for determining Annual Income; however, the Lender must consider other factors unique to each mortgagor:

1. **Partial year income:** if the proposed mortgagor(s) expects to receive an income for only a partial year, use the figures available for the past and current year and average them for a 12-month period. For example, a seasonal worker is laid off in the winter during which he/she will receive unemployment compensation. The seasonal wages and the unemployment compensation will be included for their respective portions of the year.
2. **Unemployment:** if received in the past, a two-year average from the tax return should be used. If they have only received unemployment for one year, use that amount.
3. **Salaried or wage earners:** use income from a Verification of Employment (VOE) or electronic verification services. Scheduled pay raises that will be received prior to loan closing must be used.
4. **Overtime pay and bonuses:** if not received for at least **two** years, does not have to be counted. If an employer does not indicate by any method that overtime and bonuses will continue, it does not have to be counted regardless of how long it has been received.

If the overtime and bonuses will be used for credit purposes, it must be used for compliance income.

5. **Commission and tips:** if not received for at least **two** years, does not have to be counted.

If the commission and tips will be used for credit purposes, it must be used for compliance income.

6. **Employee business expenses:** (see Form 2106 of Federal tax returns) reimbursed by the employer are added to gross wages and the total of employee business expenses are then subtracted from gross income to determine net wages.
7. **Interest earnings:** liquid assets such as checking/savings accounts if the aggregate account balances after loan closing will exceed \$5,000. **(Currently not applicable as a default zero interest rate can be used.)**
8. **Self-employed individuals/business income:** use the average of the previous two years using net income/loss from the federal tax return. Do not add back in the depreciation deduction taken on business income.
9. **Rental income (from sources other than the proposed Residence) and partnerships:** see Schedule E of the federal tax return. If the business is jointly owned with a person(s) other than the proposed mortgagor(s), prorate the net income according to the percentage of ownership.
10. **Farm income:** use Schedule F of the federal tax returns for the past two years. When determining income for eligibility under the Program, do not add back in the depreciation deduction taken on business and/or farming income.
11. **Two- to four-unit Residence purchase:** net rental income realized from tenant-occupied units must be included on the Compliance Worksheet. Net rental income is gross rent(s) less than the projected expenses, the industry-standard vacancy factor for the area and debt service attributed to the rented unit(s). Gross rent(s) will be the greater of market rent(s) found on the appraisal or current rent(s) being collected if such rents will continue. For expenses, the amount projected on the appraisal is acceptable. If the appraisal does not project the expenses, then use the actual Seller expenses from Schedule E of the previous year's federal tax return. The debt service attributed to the rented units is calculated by deducting half the payment on a two-unit Residence, two-thirds for a three-unit Residence, and three-quarters for a four-unit Residence. **If the borrower intends to use the property as a single-family unit, we require a statement from the borrower as to the intent and the net rental income would not be included.**

12. **Alimony:** court-ordered
13. **Child support:** if court-ordered, must be included along with documentation that it is being received. If child support has been received for less than one year it does not need to be counted. If a lender is using child support for credit, the income must be counted.
14. **Full time/part-time military:** LES is required proof of income. Military special pay and allowances (such as BAQ, rations, and clothing) must be included even though they are not taxable income. **Do not include hazardous duty pay.**
15. **Social Security benefits (for a borrower or a dependent child):** the benefit letter will be required to obtain the gross amount.

RD GUARANTEED LOANS: household income cannot exceed the lesser of the Program Annual Income Limit or the RD income limit. **Do not assume that the RD limit is less than the Program limit in all cases. In some situations (in the larger household size categories), the RD limit is greater.**

Household Size: Income Limit eligibility is based on the household size as of the date the loan is closed. There are two categories of household size:

- Households of less than three members
- Households of three or more members.

Care should be exercised when determining the household size, especially where a change in household size between the time of application and loan closing would affect income eligibility. See the following paragraphs for additional guidance.

Generally, for purposes of determining the household size, and thus the applicable Income Limits, the following persons may be considered:

- **Dependent child(ren)** of the proposed mortgagor(s) that reside in the household at least six months of each year.
- **Dependent child(ren)** attending school, college or a similar institution:
 - Who can be claimed as a dependent on the parent's federal income tax return.
 - The previous year's tax returns must be reviewed to assure that the child had been previously claimed as a dependent.
 - If the child was not previously claimed as a dependent, additional documentation will be required.
- **Pregnant proposed mortgagor:** If the birth of a child would change the household size from a two-member to a three-member household, the child must be born prior to loan closing to qualify a household for the three- or more-member household income limit

4.03 Occupancy

The Lender warrants, with respect to each mortgage loan, that as of the delivery date to the best of the Lender's information and belief the mortgagor intends:

- To use the Residence solely as the mortgagor's principal Residence.
- To not use Residence as a second home or vacation home, or income producing property.
- To not conduct a trade or business on the mortgaged Residence except as allowed under Section 5.04 of this guide.
- To occupy the Residence within 60 days of the mortgage loan closing.

4.04 Good Credit Risk

The proposed mortgagor(s) must be determined to be a good credit risk using the credit standards established by FHA, RD, VA, PMI companies or, for uninsured loans, Fannie Mae or Freddie Mac. The Agency will rely on the Lender's interpretation of those standards to underwrite the mortgage loan.

4.05 Resident/Non-Resident Aliens

Resident/Non-Resident aliens must meet the requirements of an Eligible Mortgagor as described in Section 4. The Agency realizes that the normal documents proving eligibility for the Program may not be available from resident/non-resident aliens. For example, tax returns showing income and prior homeownership may not be available. Therefore, the Agency will consider alternative documentation proving their eligibility on a case-by-case basis.

4.06 Non-Obligated Spouse

A non-obligating spouse must meet Program criteria, therefore:

1. They must be a first-time homebuyer.
2. Their income must be used when calculating Compliance Income. Refer to Section 4.02 for specific criteria.

Because of the homestead rights under the laws of the State of North Dakota, a non-obligated or non-purchasing spouse is required to sign the Mortgage but is not required to sign the Mortgage Note. If the non-obligating spouse is not listed on the first page of the mortgage along with the name of the mortgagor and their marital status, we would require that the non-obligating spouse is specified somewhere on the mortgage such as including "non-obligating spouse" behind their name on the signature line.

In addition to the Mortgage, a non-obligating spouse must sign the following program documents:

1. Residency and Income Statement.
2. Start or DCA Disclosure, if applicable.
3. Recapture Tax Disclosure Notice.
4. Tax-Exempt Financing Rider to Mortgage.
5. Declaration of Lien Interest, if applicable.
6. HUD 184 Release of Mortgage Information, if applicable.
7. Taxpayer First Act Consent
8. Affidavit of Buyer

ONLY BORROWER(S) AND NON-OBLIGATING SPOUSE MAY SIGN THE MORTGAGE AND TAKE TITLE. NON-OCCUPYING CO-SIGNORS/CO-BORROWERS ARE NOT ALLOWED. PURCHASE MONEY MORTGAGES ARE NOT RECOGNIZED BY THE AGENCY.

4.07 Targeted Areas Eligibility

The Internal Revenue Code requires that issuers of tax-exempt mortgage revenue bonds set aside for up to one year a portion of the proceeds of a bond issue (referred to as "Targeted Area Proceeds") for Targeted Areas. Targeted Areas shall mean such areas of the state that are either a qualified census tract or an area of chronic economic distress.

A Targeted Area Loan is a mortgage loan made to finance the acquisition of a Qualified Residence located or to be in a Targeted Area.

A mortgagor receiving a Targeted Area Loan **does not have to be a First-Time Homebuyer** as defined in Section 4.01. The Annual Income and Acquisition Cost Limits for Targeted Areas are also higher than for the standard FirstHome program.

The following information is available on the Agency's website under [Targeted Area Loan Program](#):

- Income Limits.
- Acquisition Limits.
- Targeted Areas by County and Census Tract.
- Link to Search by Address (through the Census Bureau's American Community Survey site, enter address to find the census tract location for the property).

4.08 Prior NDHFA Loans

If borrower(s) previously had an NDHFA loan and said borrower(s) want to use an NDHFA loan program to purchase another home, they will be prohibited if there was a completed foreclosure, deed in lieu of foreclosure or short sale on the previous NDHFA loan.

If borrower(s) previously had an NDHFA loan and an amount of \$1,000.00 or more of Start or DCA funds were waived as part of the payoff of the previous NDHFA loan, borrower(s) will be prohibited from using Start or DCA funds again for a period of three years from the date of the previous loan payoff.

The prohibition is at the sole discretion of the Agency and may be waived on a case-by-case basis.

SECTION 5 – ELIGIBLE RESIDENCE

5.01 Qualifying Residences

General

- Located within the State of North Dakota.
- One- to four-units.
- Detached homes, townhouses, and condominiums.
- Manufactured homes with permanent foundations (see Section 5.07).
- Condominium units must be approved by the respective loan insurer/guarantor or meet Fannie Mae/Freddie Mac standards if the loan is uninsured.
- Two- to four-unit Residences:
 - Must have been built at least five years prior to the closing of the mortgage loan. The only exception is a previously unoccupied, two-unit Residence located in a Targeted Area,
 - The buyer must occupy one of the units.
 - Projected net rental income realized from tenant-occupied units must be included on the Compliance Worksheet (see Section 4.02, calculating rental income).
 - **If the borrower intends to use the property as a single-family unit, we require a statement from the borrower as to the intent and the net rental income would not be included.**
 - **Two- to four-unit Residences are not eligible for RD.**

Rural properties are subject to the following limitations:

- The land generally cannot exceed 10 acres.
- The primary and best use of the property must be residential.
- Must have direct access to publicly maintained roads.
- Non-residential buildings (e.g. barns, workshops, grain bins, etc.) can be financed in the mortgage loan if they are non-income producing buildings.
- Cannot be subject to easements or covenants that are not:
 - Insured by title insurance.
 - Acceptable to Fannie Mae or Freddie Mac.
 - Prior approved by the Agency.
- Unacceptable rural property situations include, but may not be limited to:
 - Landlocked sites (e.g. no access to public roadways).
 - Ingress/egress easements.
 - Encroachment easements.
 - Essential utilities (e.g. sewer, water, etc.) that are inadequate or are located outside the mortgaged property boundaries.

Refer to Section 3.08 for the Agency's policy and guidelines for dealing with pending loan closings involving properties with weather-related damages.

Rehabilitated structures are considered previously occupied, even if not originally designed for residential use.

5.02 Acquisition Cost

Qualified mortgage loans shall be made only on a Residence with an Acquisition Cost that does not exceed the Program Area Limit in effect at the time of loan application. In addition, the mortgage loan amount cannot exceed the Acquisition Cost **Area Limit** (not to be confused with the calculated Acquisition Cost for the Residence being purchased) in effect at the time of loan application. Refer to the Agency's website for the current Acquisition Cost Area Limits.

In order to calculate the total Acquisition Cost of the Residence, it is necessary to identify all amounts the mortgagor(s) is expected to spend in connection with the acquisition, repair or rehabilitation, if any, of the Residence. Use the Compliance Worksheet to calculate the Acquisition Cost of the Residence. The amount calculated must be substantiated by obtaining copies of all purchase contracts, agreements, and understandings between buyer and seller. In addition, the Lender is required to obtain an Affidavit of Seller, which validates the contract(s) between the buyer and seller.

The Acquisition Cost for a newly constructed or existing Residence is the cost of acquiring a completed residential unit. The Acquisition Cost is comprised of all amounts paid by the mortgagor(s) as consideration for the Residence. The Acquisition Cost will not include:

- Financing or closing costs.
- Sweat equity, the value of services performed by the mortgagor or members of the mortgagor's immediate family in completing the Residence.
- The cost of land if the land was acquired more than 24 months prior to the date construction began or if given as a gift.

If repair or rehabilitation expenses are going to be completed in conjunction with the purchase of the Residence, such expenses that are the responsibility of the buyer are part of the Acquisition Cost even if such costs are not financed in the mortgage loan. If the seller of the Residence incurs the expense and increases the purchase price of the Residence accordingly, the expenses would be included in the Acquisition Cost.

Personal property may not be financed in the mortgage loan. Therefore, it **cannot** be included in the Acquisition Cost. If the Purchase Agreement includes personal property, there are two choices:

- The agreement must include a statement reciting such personal property does not contribute any value to the purchase price.
- An executed Personal Property Addendum (available under Selling Guide and Mortgage Loan Forms on the Agency's website) must be signed by the mortgagor(s) and Seller(s) and attached to the Purchase Agreement.

The Purchase Agreement can include only real property, improvements constituting a Residence and structures that could be construed as a benefit of the Residence only (e.g. garage, shed, etc.).

Appliances/Fixtures: For MRB tax code rule compliance stoves/ranges, fridges, clothes washer and/or dryer and any other appliances that could be considered **not** "built-in"—think pull a plug and take it—are counted as personal property and may not be financed in the FirstHome loan nor included in the Acquisition Cost.

When a Purchase Agreement, whether involving an existing or newly constructed Residence, specifically states an allowance amount or amount for appliances, it cannot be represented that the appliances

have no value in the contract. Thus, a Personal Property Addendum, as previously stated, does not make the transaction Program compliant.

Therefore:

- Personal property cannot be financed as part of the loan. The amount of the personal property would need to be subtracted out of the Acquisition Cost and the base loan amount could not exceed the acquisition cost.
- A separate contract must be executed between seller and buyer for said personal property. The separate contract cannot include fixtures (e.g. furnaces, water heaters, flooring, etc.).
- Funds to pay for the personal property contract items cannot come from the FirstHome loan proceeds.

The Acquisition Cost of a newly constructed Residence is that which appears on the Purchase Agreement between the builder/seller and the buyer plus the cost of any additional improvements the buyer makes to the Residence and not covered in the Purchase Agreement.

Sworn Construction Statement: in the event there is no Purchase Agreement, the Acquisition Cost of a newly constructed Residence must be substantiated by a Sworn Construction Statement (available under Selling Guide and Mortgage Loan Forms on the Agency's website). The Sworn Construction Statement must include the total of the cost of construction, the cost of the lot if owned for less than 24 months from the date on which construction began, and all site improvements. This includes land for which the mortgagor has acquired title, by deed or contract and irrespective of any outstanding obligation against said land. In determining the 24-month threshold, use the date the deed or contract was initially executed.

Estate Purchase: In a case when the borrower is purchasing a home from an estate in which the borrower is also an heir to such estate, the inheritance the borrower will be realizing at settlement is considered equity and not an out-of-pocket cost of purchasing the Residence. Such inherited equity cannot be considered part of the Acquisition Cost of the Residence and cannot be financed in the mortgage loan. However, there is no prohibition against considering the inherited equity as the down payment for determining the loan-to-value ratio.

5.03 Maximum Land Limitation

Proceeds of the mortgage loan may not be used to purchase any land in excess of an amount required to reasonably maintain the basic livability of the Residence or purchase any land or outbuilding intended for a trade or business use. To ensure compliance with this limitation, the Lender will request the Appraisal Addendum A (available under Selling Guide and Mortgage Loan Forms on the Agency's website) to be completed by the appraiser and attached to the Appraisal. In the case of rural Residences, generally, the amount of land cannot exceed 10 acres.

5.04 Trade/Business/Recreational Home

The mortgagor cannot use the Residence in a trade or business or as a recreational home. The Lender shall question the mortgagor(s), contact the employer if any, and obtain the notarized Affidavit of Buyer from the mortgagor(s) which verifies that no more than 15 percent of the total enclosed, finished area of the principal residential structure of the Residence will be used primarily in any trade or business activity in any manner that will qualify, for federal income tax purposes, for a home business deduction. If there is a question as to compliance, a physical inspection of the subject Residence is necessary.

A **daycare business** is exempt from this limitation if the area of the daycare operation is used for normal living purposes of the mortgagor.

5.05 Remaining Economic Life

Each Qualified Residence that is the subject of a mortgage loan must have a remaining economic life of at least 33 1/3 years. The appraiser for a mortgage loan certifies the remaining economic life of a Qualified Residence on the Appraisal Addendum A (available under Selling Guide and Mortgage Loan Forms on the Agency's website).

5.06 Rental Prohibition/Waivers

Federal law mandates all Residences financed through the Program must be owner-occupied. Mortgagors are required to use the home as their primary residence within sixty days of loan closing. Noncompliance with this requirement may result in the full balance of the mortgage note becoming immediately due.

Under rare circumstances, the Agency may allow mortgagors to rent out their residence. To request a waiver, mortgagors must contact the Agency before renting the property and provide the necessary documentation. The Agency will review the submitted information and issue a rental waiver if the request is approved.

If granted a rental waiver, the mortgagor must properly maintain the residence, maintain proper and adequate hazard and, if applicable, flood insurance coverage and keep the mortgage loan payments current.

Additionally, federal law prohibits mortgagors from deducting mortgage interest payments on their taxes for more than 1 year after they cease to occupy the home as their primary residence.

5.07 Manufactured Housing

Highlights

- It must be, or will be, permanently attached to the land in a manner prescribed by the Mortgage Insurer/Guarantor. (In case of uninsured loans, it must meet Fannie Mae/Freddie Mac guidelines).
- The unit and land must be recognized as real property by the local taxing authority.
- The completed Residence must meet all state and local building and zoning codes.
- The mortgagor(s) intend to and will keep it so affixed throughout the term of the mortgage loan.

The following requirements and guidelines apply to **ALL** mortgage loans secured by manufactured homes **unless otherwise noted in this section**. For our purposes, a manufactured home is defined as any dwelling built on a permanent chassis and attached to a permanent foundation system. These requirements and guidelines do not apply to other factory-built housing such as modular, prefabricated, panelized or sectional housing.

1. A manufactured home must be built in compliance with the Federal Manufactured Home Construction and Safety Standards that were established on June 15, 1976, (as amended and in force at the time the home is manufactured) and that appear in HUD regulations at 24 C.F.R. Part 3280. Compliance with these standards will be evidenced by the presence of a HUD Data Plate. The HUD Data Plate/Compliance Certificate is a **paper document** located on the interior of the subject property that contains, among other things, the manufacturer's name, and trade/model number. In addition to the data required by Fannie Mae, the data plate included pertinent information about the unit including a list of factory-installed equipment. The HUD Certification Label is a **metal plate**, sometimes referred to as a HUD "seal" or "tag," located on the exterior of each section of the home.
2. If you are unable to obtain the required insurance coverages for hazard and/or flood insurance as described in Section 7, the Agency will accept a coverage amount that is equal to, at a minimum,

75 percent of the loan amount. The Agency requires that the hazard and/or flood insurance policy be delivered to the Agency prior to the loan being purchased.

3. A screen print from the North Dakota Department of Transportation's (NDDOT) Title Status Search (TSS) website is required. The TSS must reflect that the title/Manufacturer Certificate of Origin (MCO) was retired and the home has been converted to real estate. The TSS is available online: <https://apps.nd.gov/dot/mv/mvrenewal/titleStatus.htm>.
4. In addition to the manufactured home requirements set forth in this section, the mortgage loan must comply with the requirements of state and local government.

The State of North Dakota requires that any new manufactured (mobile) home installed anywhere in North Dakota must be installed by a licensed installer and inspected by a certified inspector to assure that it is installed according to the manufacturer's installation instructions. Once a new manufactured home is inspected and found to follow the manufacturer's installation instructions, the certified inspector will affix a state insignia on the exterior of the home. The Agency requires Lenders to submit a copy of the North Dakota Division of Community Services Manufactured Home Installation Inspection Checklist. The Agency requires a copy of this document to accompany the funding package. New manufactured home requirements for the State of North Dakota are available online: <https://www.commerce.nd.gov/community-services/manufactured-home-installation-program>.

5.08 Rural Appraisal Gap

To assist lenders in dealing with rural appraisal gap issues on newly constructed or existing homes, the Agency will grant **single loan waivers** for FirstHome loans where a lender is providing secondary financing for the appraisal gap. The lender providing the secondary financing can be the lender originating the first mortgage or another lender that the borrower has obtained financing through. To obtain a waiver:

- The lender must submit the underwriting file to the Agency for review.
- The combined loan to value ratio cannot exceed 120 percent.
- The property must be located within a rural area as defined by Rural Development.

All other FirstHome Program and loan insurer/guarantor requirements must be met.

SECTION 6 – ELIGIBLE MORTGAGE LOAN

6.01 Loan Types

The Agency will purchase the following types of mortgage loans:

1. FHA insured loans, including “buy downs.” No GPM loans.
2. RD Guaranteed Loans. Mortgage loans on two- to four-unit Residences are not eligible for the RD Guarantee.
3. Conventional loans with Private Mortgage Insurance up to 97 percent LTV FirstHome **eligible PMI companies** are those approved by Fannie Mae or Freddie Mac. The required PMI coverage is as follows:

LTV	Coverage
97% to 95.01	35%
95% to 90.01%	30%
90% to 85.01%	25%
85% and below	12%

Additionally, if the DU or LP underwriting decision (risk class) is less than Approve (DU) or Accept (LP), the Agency reserves the option to require a higher level of coverage than listed above. For instructions on how to request the Agency to review the file for a waiver of the Approve/Accept risk class, see Section 1.10.

If you receive an Ineligible on your findings and it is due to subordinate financing (DCA or Start) or the LTV being above 95 percent, this is acceptable to the Agency.

The Agency allows Single Premiums and Split Premiums for Private Mortgage Insurance.

Borrower must have a 24-month payment history before requesting cancellation of PMI from the Agency. After the 24-month period and at the borrowers request the Agency will follow their PMI cancellation policy based on the situation being requested.

4. VA Guaranteed Loans that carry the maximum potential guarantee allowed by the VA.
5. Uninsured loans with 80 percent loan-to-value ratio or less that are underwritten to Fannie Mae/Freddie Mac standards. See Section 6.14 for further guidance on subordinate financing and eligible sources of down payment assistance.
6. HUD Section 184 insured loans.

6.02 Reserved for Future Use

6.03 Mortgage Loan Amount

The mortgage loan amount, prior to adding in the appropriate RD Guarantee Fee, VA Funding Fee, or FHA up-front Mortgage Insurance Premium, cannot exceed the mortgagor(s) acquisition cost of the transaction; not to be confused with the Acquisition Cost Area Limit. For more information on calculating the acquisition cost, refer to Section 5.02. Also, the mortgage loan amount cannot include closing costs or financing costs regardless of the appraised value of the Residence and irrespective of the ability to do so

by the mortgage insurer/guarantor. **The Agency requires the borrower(s) to have a minimum investment of \$500 in all cases.**

6.04 Interest Rate

The Interest Rate(s) offered by the Agency are subject to change daily and are posted at 3:00 a.m. on the Agency's website. Lenders should confirm the available Interest Rates before making a commitment to the applicant.

Except possibly in the case of special loan programs, mortgage loans are always fixed-rate loans. Temporary buydowns are allowed under the Program. They must follow the loan insurer/guarantor guidelines or in the case of uninsured loans, follow Fannie Mae/Freddie Mac guidelines. In all cases, mortgage loans will have a term of 30 years.

6.05 Terms and Conditions

All mortgage loans to be purchased by the Agency shall comply with all the requirements set forth in Section 6 including, but not limited to, the following:

1. The purpose of the mortgage loan is to finance the acquisition of a Qualified Residence.
2. Unless otherwise provided by Program Directive:
 - a. The term of the mortgage loan cannot be less than 29 years and 11 months nor more than 30 years and one month for 30-year loans.
 - b. The principal and interest payments must be sufficient to amortize the loan over the term thereof and are established at the time of loan closing.
 - c. The payment shall commence not later than 60 days following loan closing.
3. The term of the mortgage loan cannot exceed 90 percent of the remaining economic life of the Qualified Residence. Therefore, the remaining economic life must be 33 1/3 years for a 30-year mortgage.
4. The mortgage loan must provide that the mortgagee has the right, at the Agency's option, to forgive the outstanding principal balance at any time.
5. The mortgage loan must allow prepayment by the mortgagor, in whole or in part, at any time without penalty or premium.
6. The mortgage loan shall provide that the mortgagee is authorized to impose late payment charges with respect to payments of principal, interest and escrow that are delinquent for at least 15 days.
7. The mortgagor is required to make monthly Escrow Payments to pay when due all taxes, assessments, any applicable premiums for Standard Hazard Insurance Policies, Flood Insurance Policies, any applicable GMI or PMI, and other charges to the extent actually charged or assessed.

6.06 Permitted Closing Costs

The Lender may charge the mortgagor and the seller, or only the mortgagor if there is no seller, origination fees and discount points in the total amount not to exceed the amounts specified by the Agency by Program Directive.

The Lender may also charge and collect from mortgagors those costs that are customary, reasonable, and necessary to close the mortgage (e.g. underwriting fees, commitment fees, etc.). The Lender may not charge a tax service fee and markups on third-party services will not be allowed.

6.07 Establishing P&I Payment

The P&I amount should be rounded up to the nearest penny to ensure that the mortgage loan amortizes over the term of the mortgage.

6.08 Required Documentation

All Program loans are subject to, and the Mortgage must include language consistent with the requirements of the North Dakota Century Code.

All riders to a note or mortgage, whether Agency or industry required, must be referenced on such note or mortgage, executed by the mortgagor(s), attached to, and recorded, if applicable, with the appropriate document.

The Agency's Tax-Exempt Financing Rider (available under Selling Guide and Mortgage Loan Forms on the Agency's website) **must be executed by the mortgagor(s), attached to and recorded with the Mortgage.**

The Mortgage Note must contain language describing the holder's right to collect a late fee. If the form of Mortgage Note to be used for a mortgage loan does not contain such language, the following must be inserted and initialed by the mortgagor(s) at loan closing:

"If the Note Holder has not received the full amount of any monthly payment by the end of fifteen calendar days after the payment is due, the Note Holder may collect a late charge in the amount of 4 percent of the overdue payment. I will pay this late charge promptly, but only once on each late payment."

ALL MODIFICATIONS TO THE NOTE AND MORTGAGE MUST BE INITIALED BY THE MORTGAGOR(S).

ONLY BORROWER(S) AND NON-OBLIGATING SPOUSE MAY SIGN THE MORTGAGE AND TAKE TITLE.

6.09 Title Insurance

As of the Mortgage Purchase Date, a Qualified Residence must be covered by a valid and existing, fully paid American Land Title Association (ALTA) Lender's title insurance policy (or title commitment). Title insurance reference documents are available under Selling Guide and Mortgage Loan Forms on the Agency's website.

6.10 Acceptable Mortgage Accounting

The amortization method of individual loan accounting, with interest calculated in arrears, must be used on all loans sold to the Agency. Under this method, the application of principal and interest of an individual mortgage payment is determined by first calculating the interest portion and applying the remainder of the payment to the principal balance. The interest is calculated by using the outstanding principal balance after the application of the preceding payment. The interest, so computed, applies to the period preceding the due date of the installment being applied. **The due date on all payments is always the first of the month.**

Where computations involve a multiple of installments, such as for delinquent installments or prepaid installments, each installment must be calculated in succession using a principal balance resulting after the prior calculation and principal application. Similarly, a method that strictly applies payments in accordance with a predetermined amortization schedule is also acceptable.

All monthly interest calculations shall be made using a 30-day month, 360-day year. Factors used for such calculations must be carried to not less than six decimal places. Interest calculations for periods of less than a month (e.g. loans paid in full, odd days interest calculated at closing) shall be based upon a 365-day year.

6.11 Escrow Account Standards

Escrow accounts for taxes, insurance, assessments and other charges are required on all mortgage loans originated for the Agency, no exceptions. The Lender shall compute the required escrow payment based

on assessments, bills, and/or measurable estimates thereof and advise the mortgagor of such required payment at loan closing.

Mortgage loans on newly constructed or rural properties may involve parcel splits. In some jurisdictions, parcel splits are done only once a year. Because of this, the handling of the pro-ration of taxes and the payment of the taxes for that year should be addressed prior to closing to eliminate any confusion as to who should pay taxes when they are due.

For mortgage loans where the servicing is released to the Agency, the only items allowed to be escrowed are:

- Property taxes.
- Special assessments.
- Hazard insurance.
- Flood insurance, if applicable.
- Mortgage insurance premiums.

The escrow constant must equal 1/12th of the annual amount due.

On a newly constructed Residence, when establishing the escrow payment, always consider the estimated taxes for the upcoming **end of the year**, not the previously assessed amount. Usually, the tax assessor's office will estimate taxes on Residences due to be completed before assessment time. In addition, in cities where tax abatements are in effect for newly constructed Residences, the Lender should not assume that the Residence would automatically receive the abatement. The contractor may not have applied for the abatement or the city may require the homeowner to make such application. Do not base the tax escrow payment on a lower amount unless it is confirmed the tax abatement is in effect.

A Residence may also be subject to a homestead or disability tax credit. Since such credits are typically available to the selling owner/occupants only, they may not apply to the mortgagor(s). Conversely, since this type of credit(s) has to be applied for each year, do not base the tax escrow payment on a credit, unless and until it is confirmed one will be in effect for the mortgagor.

Lenders must use the aggregate accounting method when determining the escrow requirements at loan closing and collect a **two-month** cushion in all cases. Since a cushion is required on all loans, compute and include the aggregate adjustment on the appropriate disclosure form(s).

The Initial Escrow Account Disclosure Statement is required by federal regulation on all mortgage loans. The escrow payment amount shown on this statement must reflect the payment disclosed elsewhere and actually being established. If improperly disclosed, the Agency will decide whether a new disclosure will be required from the originating lender or if the Agency will perform an escrow analysis to correct the payment amount.

6.12 Refinancing Interim/Bridge Loans

Proceeds of a mortgage loan may be used to refinance a construction period loan, a bridge, or other interim loan having a term not more than 24 months. The mortgagor must be a First-Time Homebuyer as defined in Section 4.01 at the time the interim financing is entered into to be eligible for Agency financing.

No portion of the proceeds of a mortgage loan may be used to refinance, directly or indirectly, an existing mortgage loan or loans of the Eligible Mortgagor.

Mortgage loan proceeds may not be used to finance, directly or indirectly, the purchase of a Qualified Residence:

- Which, at the time the proposed mortgagor applied for a mortgage loan, was being purchased by such mortgagor pursuant to an installment purchase contract that has a term exceeding 24 months.
- From a seller who himself was the contract purchaser thereof at the time the proposed mortgagor entered into a contract for the purchase of such Qualified Residence.

Mortgage loan proceeds may not be used to pay:

- Financing or settlement costs or any other adjustments.
- The cost of any items deducted from the sales contract price in computing the Acquisition Cost of such Qualified Residence.

Mortgage loan proceeds, provided that the mortgage loan amount does not exceed the lesser of the Principal Value or Acquisition Cost of a Single-Family Residence, may be used to pay:

- FHA insurance premiums.
- VA funding fee.
- RD Guarantee Fee.

6.13 Subordinate Financing/Eligible Down Payment Sources

On FirstHome loan cases where subordinate financing provided by the lender (80-10-10 or 80-15-5 loans) is used to reduce the amount of the first mortgage, the combined loan-to-value (CLTV) must be used when considering the need for mortgage insurance. Thus, if the CLTV is greater than 80 percent, mortgage insurance will be required in accordance with this section.

Down payment/closing costs assistance programs that are soft second mortgages and are forgiven after an “affordability period” or require repayment only upon the sale of the property are automatically exempt from the CLTV requirement if it has been previously approved by the Agency. Refer to the Agency’s website for a list of programs currently approved. If a program is not listed, consult the Agency to obtain approval.

If a non-profit or governmental entity is providing subordinate financing in the form of an amortizing second mortgage loan with monthly or other required payments, the Agency will require that it comply with the Fannie Mae Community Seconds guidelines. Utilize the Fannie Mae Community Seconds Checklist to verify compliance, available online: https://www.fanniemae.com/content/fact_sheet/community-seconds-checklist.pdf.

The Agency requires that an approval letter or other documentation showing the terms of the subordinate financing be included in the Compliance Application package.

6.14 Loan Assumption

All FirstHome loans, including HomeAccess, are assumable subject to the underwriting standards of the mortgage insurer/guarantor or, in the case of an uninsured loan, the underwriting standards of Fannie Mae/Freddie Mac. The assuming borrower(s) must meet all the eligibility requirements for the FirstHome program in effect at the time of the assumption. This includes, but is not necessarily limited to, the First-Time buyer and owner-occupancy requirements, the Annual Income limits, and the Acquisition Cost limits.

SECTION 7 – HAZARD AND FLOOD INSURANCE

Highlights

- Mortgagee Clause:
North Dakota Housing Finance Agency
PO Box 1535
Bismarck, ND 58502-1535
- Maximum Deductible:
Hazard Insurance – Higher of 1 percent of the Policy Amount or \$5,000
Wind/Hail – Higher of 1 percent of the Policy Amount or \$5,000
Flood Insurance – Higher of 1 percent of the Policy amount or \$5,000
- Flood Certificate: transfer Life of Loan to the Agency

7.01 Eligible Hazard Insurance Coverage

Each mortgagor has the right to select a company to provide hazard insurance for the Residence. Policies must be written by an insurance carrier that has an acceptable rating from either the A.M. Best Company; Demotech, Inc.; or Standard and Poor's, Inc. The Lender shall confirm that the insurance policy and coverage meet the requirements of Section 7.

The insurance policy must protect against loss or damage from fire, lightning and other hazards covered by the standard extended coverage endorsement. The coverage should be the type that provides for claims to be settled on a replacement cost basis only. The Agency will not accept hazard insurance policies that limit or exclude from coverage, in whole or in part, windstorm, hail, damages, or any other perils that are normally included under an extended coverage endorsement. The Agency will also not accept hazard insurance policies that exclude or limit coverage on specific components of the Residence such as limiting coverage to actual cash value on a roof due to its age.

The Agency requires coverage equal to the lesser of:

- 100 percent of the insurable value of the improvements as established by the property insurer.
- The unpaid principal balance of the mortgage if it equals the minimum amount (80 percent of the insurable value of the improvements) required to compensate for damage or loss on a replacement cost basis.

NOTE: for condominiums, the owners' association must maintain a master or blanket insurance policy with premiums being paid as a common expense. The policy must cover all of the general and limited common elements that are normally included in the coverage. These include fixtures, building service equipment, and common personal property and supplies belonging to the owners' association.

The policy also must cover fixtures, improvements, alterations and equipment within the individual condominium units, regardless of ownership, unless the condominium unit owners are required by the governing documents to insure these items.

Manufactured Homes: if you are unable to obtain the required coverage recited above, the Agency will accept a coverage amount that is equal, at a minimum, of 75 percent of the loan amount.

Also, on manufactured homes, the Agency requires that the insurance POLICY, not only the binder, be delivered to the Agency prior to the loan being purchased.

Multi-Unit Properties: For any multi-unit property where at least one unit is being used for income generation, the agency requires confirmation from the insurance company that all units are covered under the policy.

7.02 Reserved for Future Use

7.03 Hazard Insurance Maximum Deductibles

Standard policy deductible clause shall be the higher of 1 percent or \$5,000 of the policy face amount.

A separate wind and hail deductible is allowed in an amount equal to the greater of 1 percent or \$5,000 of the face amount of the policy.

7.04 Flood Insurance Requirements

Flood insurance is required for any Residence that is in a Special Flood Hazard Area that has federally mandated flood insurance purchase requirements. Flood insurance requirements can be waived if:

- The property improvements are not in the Special Flood Hazard Area, even though part of the Residence may be.
- The mortgagor obtains a letter from the Federal Emergency Management Agency (FEMA) stating that its maps have been amended so that the Residence is no longer in a Special Flood Hazard Area.

Flood insurance should be in the form of the standard policy issued under the National Flood Insurance Program (NFIP) or by a private insurer. The terms and conditions of the flood insurance coverage must be at least equivalent to the terms and conditions of coverage provided under the standard policy of the NFIP for the appropriate property type. The Policy Declaration page of a policy is acceptable evidence of coverage.

The minimum amount of coverage shall be the lesser of:

- The maximum insurance available under the appropriate NFIP.
- The amount required to compensate for any damage or loss on a replacement cost basis (or the unpaid principal balance of the mortgage loan if replacement cost coverage is not available).

The maximum flood insurance deductible is the greater of 1 percent or \$5,000 of the face amount of the policy. The deductible must also comply with the minimum required deductible under the NFIP.

A completed FEMA Standard Flood Hazard Determination Form must be included in every loan origination package. Lenders must use a third-party provider to make flood zone determinations. If servicing is released to the Agency, the Lender must transfer the Life of Loan contract to the Agency, which is accomplished by issuing an appropriate transfer notice to the provider with a copy to the Agency.

7.05 Mortgagee Clause Documentation

All policies of hazard insurance and flood insurance must contain a standard mortgagee clause, without contribution except for a condominium master or blanket insurance policy. The mortgagee clause must provide that the insurance carrier shall notify the first mortgagee at least 10 days in advance of the effective date of any reduction in or cancellation of the policy.

For mortgage loans originated and sold to the Agency that will be serviced by the Agency, the mortgagee clause should list the Agency and its address, "North Dakota Housing Finance Agency, PO Box 1535, Bismarck, ND 58502-1535," and the policy should be delivered to the Agency.

The Agency requires a copy of the insurance (homeowners, flood, flood determination) policy listing the agency as mortgagee and will not accept a transfer letter in lieu of this requirement.

7.06 Loan Closings on Weather-Related Damaged Properties

At times, North Dakota experiences frequent severe weather conditions that result in windstorm, hail and/or flood-damaged property. Such damage requires special attention by the Lender on pending loan closings for Program loans. Refer to Section 3.07 for the Agency's policy and guidelines for dealing with pending loan closings involving properties with weather-related damages.

SECTION 8 – RECAPTURE TAX

8.01 Effective Date

Section 143(m) of the Internal Revenue Code (IRC) of 1986, as amended, provides for a special subsidy recapture (referred to as “Recapture Tax”) on loans originated on or after January 1, 1991. The date of origination is the date that a Lending Institution makes a mortgage loan to the mortgagor, although the Lending Institution does not deliver such mortgage loan to the Agency until a later date. For purposes of this section, the date of origination is the date on the mortgage loan.

8.02 Recapture Guidelines

Other than the exceptions listed in paragraph 8.03, **any** sale, exchange, gift or other conversion (referred to as “any disposition”) of the Residence during the holding period may trigger a Recapture Tax liability. The holding period is defined as nine years beginning with the date of origination and ending on the ninth anniversary date of the Mortgage.

The amount of Recapture Tax liability, if any, is computed at the time the mortgagor(s) files a personal federal income tax return for the year in which any disposition occurred. A Recapture Tax will be due **if all three** of the following conditions are met:

- Disposition of the Residence occurs during the holding period.
- The mortgagor(s) realizes a net gain on the sale of the Residence (see Section 8.04).
- The Adjusted Qualifying Income of the mortgagor(s) for the year any disposition occurred exceeds the Adjusted Qualifying Income disclosed on the Subsidy Recapture Tax Disclosure Notice (available under Selling Guide and Mortgage Loan Forms on the Agency’s website). Recapture Tax computation is further described in the Notice.

In the case of an assumption, the original mortgagor may be subject to a Recapture Tax liability as of the sale date and the assuming buyer will begin a new nine-year holding period. If the mortgage loan is prepaid in full or refinanced during the holding period, no recapture tax will be due unless and until any disposition of the Residence occurs during the holding period. In such a case, the holding period percentage will be determined by reducing it pro-rata over the remainder of the holding period.

Except in the case of the transfer to a spouse or former spouse, if two or more persons hold interest in a Residence and are liable for the mortgage loan, the recapture amount shall be determined separately and pro-rata with respect to their respective interests in the Residence.

8.03 Exceptions to Recapture

- **Death of Mortgagor:** No recapture tax will be due in the case where the Residence is converted due to the death of the mortgagor. Any disposition by the surviving mortgagors will still be subject to recapture.
- **Involuntary Conversions:** Conversions due to a casualty loss (e.g. destruction in whole or part by fire, storm, flood, or other acts of God) will not be subject to recapture, provided the mortgagor rebuilds for use as his/her principal Residence on the site of the converted Residence within two years of the casualty loss. Any disposition of the rebuilt Residence within the original holding period would be subject to recapture.
- **Transfers to Spouse or Former Spouse:** If there is no gain realized by the transferor in the transfer of the Residence to a spouse or former spouse (e.g. such as in the case of a divorce)

during the holding period, no recapture tax is due from the transferor. Any disposition of the Residence by the transferee during the holding period will be subject to recapture.

8.04 Gain on Sale or Disposition of the Residence

For purposes of determining Recapture Tax, the gain on any disposition of the Residence is calculated in a manner described under Section 1001 (c) of the IRC, without regard to: Section 121 of the IRC, relating to the one time exclusion or deferral of a gain on the sale or disposition of a principal Residence; Section 1033 of the IRC, relating to involuntary conversions; and Section 1034 of the IRC, relating to rollover of gain to purchase of new Residence.

8.05 Disclosure

The Lender must provide the mortgagor(s) a Subsidy Recapture Tax Disclosure Notice at the time of application.

If it is determined that the mortgage loan will not be purchased by the Agency, the Lender must provide prompt notice to the mortgagor(s) that the Recapture Tax provisions is no longer applicable. This notice can be on the Lender's letterhead. A copy of such notice must be sent to the Agency.

8.06 Agency Disclaimer

The foregoing discussion in this section regarding circumstances triggering a Recapture Tax liability and determining the gain on any disposition of the Residence is to provide guidance only. There may be special rules that apply to certain situations. Mortgagor(s) should be advised to consult with their tax advisor or directly with the Internal Revenue Service with questions relating to the effect of the Recapture Tax provisions on their specific situation.

Neither the Agency nor the Lender/Service is responsible for:

- Determining whether a Recapture Tax is due.
- Computing a Recapture Tax liability.
- Ensuring that a Recapture Tax liability is paid, if due.

8.07 Recapture Tax Reimbursement Program

The Agency will reimburse mortgagors subject to the Recapture Tax for mortgage loans originated on or after October 1, 2006. The mortgagor must file a Recapture Tax Reimbursement Claim form within six months of the filing of their federal income tax and incurring the Recapture Tax liability. The claim form is available on the Agency's website and a Lender can provide the form to a mortgagor alongside the Subsidy Recapture Tax Disclosure Notice.

SECTION 9 – MAJOR HOME IMPROVEMENT PROGRAM

9.01 Purpose

The purpose of the Major Home Improvement Program is to promote and facilitate the restoration and preservation of the state's existing housing stock. This is accomplished by offering low-interest rate loans for the purchase and rehabilitation of or the refinance and rehabilitation of single-family Residences. See the Agency's website for the current interest rate and fee structure.

9.02 Authority

The Program is authorized under Section 143(k) of the Internal Revenue Code and is funded through the sale of tax-exempt mortgage revenue bonds.

9.03 Eligibility

See Section 5 for Eligible Residence requirements. In addition, the following requirements must also be met to qualify under the Major Home Improvement Program.

1. The mortgagor(s) must be the first resident of the Residence following the completion of the rehabilitation. The mortgagor(s) must intend on occupying the Residence as his/her principal Residence within 60 days of loan closing.
2. The Residence must be at least 20 years old as of the date the rehabilitation project begins.
3. At least:
 - a. 50 percent or more of the existing external walls of such building must be retained in place as external walls.
 - b. 75 percent or more of the existing external walls of such building must be retained in place as internal or external walls.
 - c. 75 percent or more of the existing internal structural framework of such building must be retained in place.
4. The expenditures for rehabilitation must equal at least 25 percent of the mortgagor's adjusted cost basis of the Residence.
 - a. In the case of a prior ownership, the adjusted cost basis is equal to the sum of the mortgagor's original Purchase Price, the cost of any subsequent capital improvements and the rehabilitation expenditures made in conjunction with the qualified rehabilitation.
 - b. In the case of the purchase of a Residence to be rehabilitated, the adjusted cost basis is the mortgagor's acquisition cost of the Residence, which includes the sales price and all qualifying and acceptable rehabilitation costs.
 - c. Expenditures for rehabilitation **cannot** include the following:
 - i. Labor performed by the mortgagor or his family.
 - ii. Seller's cost of acquiring the land or building.
 - iii. Seller's overhead or other charges not directly related to the rehabilitation.
 - d. Rehabilitation is defined as the improvement of a home to a decent, safe, and sanitary condition requiring more than routine repairs or improvements. Expenditures for swimming pools, saunas, spas or other purely recreational facilities are not eligible for inclusion in this rehabilitation loan.
5. The adjusted cost basis for the Residence cannot exceed the Acquisition Cost limit in effect as of the date of loan application. The rules for calculating the adjusted cost basis are consistent with

those for calculating acquisition cost under the Program. Refer to the Agency's website for the current Acquisition Cost limits.

6. The household income of the mortgagor(s) cannot exceed the Income Limits in effect as of the date of the loan application. Refer to the Agency's website for the current Income Limits. The rules for calculating household income are consistent with those for calculating Annual Income under the Program.

9.04 Exceptions to Eligibility Requirements

If the mortgagor(s) has not owned a home, mobile homes excluded, as his/her principal Residence at any time during the past three years, ending on the date of loan closing, Eligibility Requirements 2, 3 and 4 in Section 9.03 are waived. The owner-occupancy requirement, the adjusted cost basis limit, and the income limit still apply.

9.05 Loan Requirements

1. See Section 6 for Eligible Mortgage Loans.
2. The Loan will be secured by a Mortgage that is a first lien against the Residence.
3. The Lender can charge the mortgagor(s) and the seller origination fees and discount points in the total amount not to exceed the amounts specified by the Agency by Program Directive. In addition to the foregoing, if the Loan is insured under FHA Section 203(k), a supplemental origination fee may be charged to the mortgagor(s) in accordance with the rules and limitations of Section 203(k). The Lender may also charge the mortgagor(s) for reimbursement of customary and usual expenses incurred in processing the Loan. See Section 6.06, Permitted Closing Costs.

9.06 Lender Participation

Any Lender who has executed an MPA is eligible to participate in the Major Home Improvement Program. These loans will be serviced in accordance with the Servicing Agreement that is in place with the Program.

9.07 Rehabilitation Certification

The rehabilitation project must be certified by the Agency prior to the start of rehabilitation. Requests for rehabilitation certification will be accepted from Participating Lenders only. However, in the case of a contractor who has acquired a Residence with the intentions of rehabilitating and reselling it, the contractor may submit such requests for certification. If that is the case, the contractor can request the necessary forms and information directly from the Agency.

The Agency's certification, Part II of Certification of Proposed Rehabilitation (available under Selling Guide and Mortgage Loan Forms on the Agency's website), will only certify that the rehabilitation project will qualify for the Program. It is not to be construed as a Reservation of funds or a commitment to purchase the resulting loan. All other Program requirements and procedures will be underwritten and implemented as prescribed in the Program.

The request for certification must include:

1. A Certification of Proposed Rehabilitation with Part I completed.
2. Formal bids supporting all rehabilitation costs, each of which includes a breakdown of materials and/or labor to be provided.
3. An appraisal reflecting the final value after the completion of the rehabilitation project. Pictures must be included.

4. If the proposed rehabilitation project involves the moving, elimination or addition of interior or exterior walls, include a floor plan and specifications. The floor plan drawing must show both existing and proposed walls.
5. In the case of an owner who is rehabilitating and refinancing his/her primary Residence include:
 - a. A copy of the original purchase agreement or equivalent evidence substantiating the original purchase price.
 - b. Evidence (e.g. contracts, paid receipts, etc.) of capital home improvements made by the owner subsequent to the acquisition of the home and completed prior to the rehabilitation project.
 - c. Evidence of the owner's outstanding mortgage balance(s) (e.g. current billing statement or history).

The Agency reserves the right to request additional documentation in making its determination that the proposed rehabilitation is eligible under the Program.

Although the Agency will permit do-it-yourself projects, the Agency encourages and will look more favorably on projects that involve experienced contractors. Do-it-yourself projects will be reviewed on a case-by-case basis and will be permitted only when the mortgagor can demonstrate the capacity to perform the proposed work.

When a contractor/seller is requesting approval of a proposed rehabilitation and there is no Purchase Agreement in effect at the time of the request, the Agency's certification will, after taking into consideration the 25 percent rehabilitation test, establish a maximum sales price based on the amount of rehabilitation expenditures. The maximum loan amount will be subject to loan-to-value limitation of the Program.

When an owner is requesting approval of a proposed rehabilitation, the Agency's Certification will include a maximum Loan amount based on the appraised value after rehabilitation and subject to the Program limitations. However, the Loan amount **cannot** exceed the sum of the payoff of existing mortgage(s), if any, and the rehabilitation expenditures. Equity withdrawals will not be permitted.

In the case of an application described in Section 9.04, this certification process is waived.

9.08 Reservation of Funds

Procedures for obtaining Reservations are the same as those under the Program. See Section 3.02.

9.09 Compliance Commitment

Major Home Improvement Loans must be approved for compliance with the Program prior to closing the loan. The procedures for obtaining a compliance commitment are the same as those used under the Program.

9.10 Rehabilitation Project

The Lender will be responsible to monitor the rehabilitation project including making as many inspections, depending upon the scope of the project, as necessary to assure compliance with normal construction lending practices. In all cases, a final inspection by the Lender will be required.

Upon completion of the rehabilitation, the Lender will be required to make a final reconciliation of all disbursements and then certify that the actual cost of the rehabilitation meets the minimum 25 percent expenditure requirement and that it was completed according to plans and specifications originally submitted. Use Part III of the Certification of Proposed Rehabilitation for this purpose.

Except in the case of an FHA 203(k) loan, the rehabilitation must be completed to the extent that Residence is habitable at the time the permanent Loan is closed. Any improvements not necessary to provide a habitable home may be escrowed, provided it is not reasonable to expect their completion by closing. Such escrow will be subject to FHA limitations.

In the case of a Loan insured under FHA Section 203(k), since the insurance certificate is issued immediately after Loan closing, the Loan may be submitted for purchase regardless of the status of the rehabilitation project.

9.11 Loan Delivery

Major Home Improvement Loans will be delivered to the Agency for purchase using the procedures and requirements as established under the Program. Refer to the Mortgage Submission Voucher (available under Selling Guide and Mortgage Loan Forms on the Agency's website) for the required documentation.

NOTE: When processing an application for a buyer of a rehabilitated Residence, use the Affidavit of Buyer. When processing an application for an owner who is rehabilitating his/her home, use the Affidavit of Owner. In the latter case, an Affidavit of Seller is not used. (These documents are available under Selling Guide and Mortgage Loan Forms on the Agency's website)

SECTION 10 – CREDIT REVIEW SERVICE

10.01 Introduction

The Agency wants to make its programs available to **all** eligible North Dakotans. The Credit Review Service (CRS) is available to those Participating Lenders who do not have the authority or want the responsibility of underwriting mortgage loans.

CRS is available only for loans to be purchased by the Agency from Participating Lenders.

10.02 Scope of Services

The Agency provides a credit review service to assist Lenders who have the capacity to process, close, and disburse loans, but do not have the authority or want the responsibility of underwriting them. All of these loan cases must utilize Fannie Mae's automated underwriting system referred to as Desktop Underwriter (DU) or GUS for USDA Rural Development loans.

10.03 Lender Responsibilities

The Lender will be responsible for conducting the initial loan application and developing and delivering the underwriting package to the Agency for credit review prior to loan closing. The underwriting package must include the documentation listed on the Credit Review Checklist (available under Selling Guide and Mortgage Loan Forms on the Agency's website). In addition, Lenders are required to implement a quality control plan acceptable to the Agency. An acceptable plan is one that includes the standards and procedures for taking loan applications, processing and closing loans established by the corresponding loan insurer/guarantor as well as the compliance standards and procedures established by the Agency in this Selling Guide.

The Lender will enter the application information into DO and submit the data to DU or GUS for Rural Development loans. The Lender is responsible for the accuracy/integrity of the information submitted to these Automated Underwriting Systems.

10.04 CRS Fees

The fee for CRS is \$500. This fee is invoiced monthly by the Agency and is due regardless of whether or not the loan is approved. Fees are subject to change.

10.05 Lender Approved by Mortgage Insurer/Guarantor

Whenever necessary, the Lender must obtain and maintain its approval by the appropriate mortgage insurer/guarantor under which it intends to originate loans.

10.06 CRS Enrollment

The Lender must execute a CRS Enrollment Agreement and the drafting authorization.

SECTION 11 – DOWN PAYMENT/CLOSING COSTS ASSISTANCE PROGRAM

Highlights

DCA is a pricing option that is available with FirstHome and HomeAccess:

- Provides 3 percent credit at closing for down payment and/or closing costs.
- Available on one- or two-unit properties.
- Lower income limits.
- No monthly payment, forgiven after 96 payments made on first mortgage.
- Borrower must complete an approved homebuyer education course.

Disclosures/Documents

- Upfront: DCA Disclosure.
- Closing: Declaration of Lien Interest.

11.01 Introduction

The DCA Program pricing option provides purchase assistance to qualified borrowers. The benefit of the DCA program is that the interest rate on the first mortgage is the same as the FirstHome Standard option providing our lowest rate to the low-income qualified home buyer. DCA interest rates are subject to change daily and are posted at 3:00 a.m. on the Agency's website.

The Lender provides a credit, the DCA assistance, towards the down payment and closing cost at loan closing equivalent to 3 percent of the mortgage loan amount. The Agency will purchase the first mortgage at 103 percent of the principal purchased.

Some PMI companies may not consider the DCA as an eligible source of funds for the mortgagor(s) minimum down payment requirement. However, DCA may be used for funding the mortgagor's closing costs and pre-paid items. Check with the appropriate PMI provider to make certain.

11.02 DCA Program Parameters

1. Complete a homebuyer education course approved by the Agency before loan closing.
2. Meet the requirements as a First-Time Homebuyer (see Section 4.01).
3. Select a DCA Standard option when making a loan reservation.
4. Can combine with HomeAccess (see Section 14) by choosing a HomeAccess DCA loan option.
5. The DCA assistance will be equal to 3 percent of the **total mortgage amount in all cases. There is no maximum or minimum amount. Do not round. Do not truncate the cents.**
6. The DCA assistance, credit at closing, can be used to offset down payment, closing costs and pre-paid items.
7. DCA first mortgage borrowers must have a minimum of \$500 out-of-pocket investment in the transaction. This includes verified gift funds and any items pre-paid by the Borrower. Any portion of the minimum investment that exceeds the resulting cash requirement from the borrower to complete the transaction must be used to reduce the loan principal. The borrower cannot receive cash back at closing except for funds they have already invested in the transaction such as prepaid items.
8. FHA, RD Guaranteed, VA, and PMI/Conventional loans are eligible.
9. DCA first mortgage loans cannot include Start or other Agency approved down payment assistance programs.

10. The mortgagor's total gross annual income must be at or below the DCA income limits (i.e. 80 percent of median income by county and family size). For current limits, see the DCA program section of the Agency's website. (See Section 4.02, how to calculate annual income.)
11. If the borrower previously had an NDHFA loan using DCA/Start, and subsequently sold the home where an amount of \$1,000.00 or greater of the prorated DCA/Start payoff amount was waived by NDHFA, the borrower will be barred from using DCA/Start funds again for 3 years from the date the borrower sold the home.
12. All other FirstHome provisions not specially addressed above will remain in effect.

11.03 Residence

Eligible Residences are:

- Existing or newly constructed.
- One- to two-unit properties (one unit must be occupied by borrower).
- Condominiums/townhomes.
- Manufactured homes permanently attached to real property.
- Purchase price at or below FirstHome acquisition limit, see Agency website for current limits.

See Section 5, Qualified Residences.

11.04 Homebuyer Education

Borrower must complete a homebuyer education course to receive DCA funds.

- eHome America, <https://www.ehomeamerica.org/NDHFA>
 - Agency-sponsored course that meets the requirement.
 - \$99 fee is discounted to \$30 for DCA borrowers when code HOME30 is used.
- Other approved courses are listed on the Agency's website.

The following are the steps in meeting this requirement:

1. The borrower must complete the homebuyer education course and receive a certificate of completion that is **dated before the loan closing**.
2. For loans with more than one mortgagor, only one person is required to complete the course and receive the completion certificate **dated before the loan closing**.
3. Send the completion certificate to the Agency at one of the following times:
 - a. With the Compliance Package.
 - b. Before loan closing.
 - c. With the loan funding package.

If the completion certificate is **not** provided with the Compliance Package, the DCA approval will be subject to receiving the completion certificate.

While this requirement only applies to loans where the DCA program will be used, the Agency encourages lenders to provide the information on the homebuyer education courses to all potential loan customers.

11.05 Compliance Commitment

There is no separate Compliance Commitment for the DCA assistance. The FirstHome Loan Compliance Commitment will reference "DCA" in the loan product line and the Assistance line.

FHA requires specific documentation related to down payment assistance provided by a government entity to prove the source of funds being used to meet the borrower's Minimum Required Investment. The Agency will provide the following to satisfy FHA's requirement:

- The Agency Compliance Commitment includes language to meet requirements
- The Agency Funding Advice specifies the amount of DCA assistance

The Lender must retain these documents in the loan file as proof of meeting FHA's requirement.

11.06 Documentation for DCA Assistance

1. **DCA Disclosure** (available under Selling Guide and Mortgage Loan Forms on the Agency's website) executed by the borrower(s) including a non-purchasing spouse at time of loan application or when requesting DCA assistance. The form must be filled out with the borrower(s) name, signed and dated, and submitted with the Compliance Package.
2. **Declaration of Lien Interest** (available under Selling Guide and Mortgage Loan Forms on the Agency's website) executed at loan closing. The form must be filled out with the following information:
 - a. Loan closing date.
 - b. Borrower(s) name, same as first mortgage.
 - c. The legal description, may be attached.
 - d. The property address.
 - e. The DCA Assistance amount.
3. Include the DCA assistance amount on the final 1003 Loan Application under 4b. Other New Mortgage Loans on the Property you are Buying or Refinancing as Subordinate Lien.
4. The Automated Underwriting System must list assistance as subordinate financing.
5. The Declaration of Lien Interest must be reflected on the **Title Insurance Policy** for the first mortgage loan, although no additional title insurance is required. The document must be recorded to assure it is inferior only to the first mortgage. The mortgagee or title insurance company selects a short form or long form policy for the first mortgage. The following language is required for the policy type chosen.

Short Form: A policy Addendum/Endorsement is not required for the Declaration of Lien Interest. However, if the title insurance company chooses to issue said Addendum/Endorsement it must recite the following language under Schedule B, Part II: "In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the insured mortgage."

Long Form: This policy requires the following language on Schedule B, Part II: "In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the insured mortgage." When the long-form policy is used, all DCA recording information is required on Schedule B, Part II.

11.07 Conditions of Repayment

- The Repayment Period expires when 96 monthly payments have been paid on the first mortgage.

- The Buyer must repay the pro-rated balance of the DCA Assistance if the home is sold, refinanced, or otherwise transferred before the end of the Repayment Period that starts on the closing date of the first mortgage.
- The pro-rated balance owed is determined by how many monthly payments the Buyer has made on the first mortgage and is more particularly set forth in the Declaration of Lien Interest.
- At the end of the Repayment Period the Declaration of Lien Interest will automatically terminate.

11.08 Loan Packaging/Delivery

The following DCA documents are to be included with the Program loan origination package:

- Recorded Declaration of Lien Interest.
- Homebuyer education certificate if not already provided.

SECTION 12 – START PROGRAM

Highlights

Start is a pricing option that is available with FirstHome, HomeAccess and North Dakota Roots.

- Provides 3 percent credit at closing to be used for down payment and/or closing costs.
- One- to two-unit properties only.
- No monthly payment, forgiven after 96 payments on the first mortgage.

Disclosures/Documents

- Upfront: Start Disclosure
- Closing: Declaration of Lien Interest

12.01 Introduction

The Start Program pricing option provides purchase assistance to qualified borrowers. The interest rate on the Start first mortgage will be higher than a FirstHome Standard first mortgage. Start interest rates are subject to change daily and are posted at 3:00 a.m. on the Agency's website.

The Lender will give the Eligible Mortgagor(s) a credit, the Start assistance, towards the down payment and closing cost requirement at loan closing equivalent to the 3 percent of the mortgage amount. The Agency will purchase the first mortgage at 103 percent of the principal purchased.

Some PMI companies may not consider Start as an eligible source of funds for the mortgagor(s) minimum down payment requirement. However, Start funds may be used for funding the mortgagor's closing costs and pre-paid items. Check with the appropriate PMI provider to confirm.

12.02 Start Program Parameters

1. Meet the requirements as a First-Time Homebuyer (see Section 4.01).
2. Select a Start option when making a loan reservation.
3. Can combine with HomeAccess (see Section 14) by choosing a HomeAccess Start option.
4. The Start assistance will be equal to 3 percent of the **total mortgage amount in all cases. There is no maximum or minimum amount. Do not round. Do not truncate the cents.**
5. The Start assistance, credit at closing, can be used to offset down payment, closing costs and pre-paid items.
6. Start first mortgage borrowers must have a minimum of \$500 out-of-pocket investment in the transaction. This includes verified gift funds and any items pre-paid by the Borrower. Any portion of the minimum investment that exceeds the resulting cash requirement from the borrower to complete the transaction must be used to reduce the loan principal. The borrower cannot receive cash back at closing except for funds they have already invested in the transaction such as prepaid items.
7. FHA, RD Guaranteed, VA, and PMI/Conventional loans are eligible.
8. Start first mortgage loans cannot include DCA or other Agency approved down payment assistance programs.
9. The mortgagor's total gross annual income must be at or below the FirstHome program income limits. For current limits, see the program section of the Agency's website. (See Section 4.02, guidance on how to calculate annual income.)
10. If the borrower previously had an NDHFA loan using DCA/Start, and subsequently sold the home where an amount of \$1,000.00 or greater of the prorated DCA/Start payoff amount was waived

by NDHFA, the borrower will be barred from using DCA/Start funds again for 3 years from the date the borrower sold the home.

11. All other FirstHome provisions not specifically addressed above remain in effect.

12.03 Residence

Eligible Residences are:

- Existing or newly constructed.
- One- to two-unit properties (one unit must be occupied by borrower).
- Condominiums/townhomes.
- Manufactured homes permanently attached to real property.
- Purchase price at or below FirstHome acquisition limit, see the Agency website for current limits.

See Section 5, Qualified Residences.

12.04 Compliance Commitment

There is no separate Compliance Commitment for the Start assistance. The FirstHome Loan Compliance Commitment will reference “Start” in the loan product line and the Assistance line.

FHA requires specific documentation related to down payment assistance provided by a government entity, to prove the source of funds being used to meet the borrower’s Minimum Required Investment. The Agency will provide the following to satisfy FHA’s requirement:

- The Agency’s Compliance Commitment includes language to meet requirements
- The Agency’s Funding Advice specifies the amount of DCA assistance

The Lender must retain these documents in the loan file as proof of meeting FHA’s requirement.

12.05 Documentation for Start Assistance

1. **Start Disclosure** (available under Selling Guide and Mortgage Loan Forms on the Agency’s website) executed by the borrower(s) including a non-purchasing spouse at time of loan application or when requesting Start assistance. The form must be filled out with the borrower(s) name, signed and dated, and submitted with the Compliance Package.
2. **Declaration of Lien Interest** (available under Selling Guide and Mortgage Loan Forms on the Agency’s website) executed at loan closing. The form must be filled out with the following information:
 - a. Loan closing date.
 - b. Borrower(s) name, same as first mortgage.
 - c. The legal description, may be attached.
 - d. The property address.
 - e. The Start Assistance amount.
3. Include the Start assistance amount on the final 1003 Loan Application under 4b. Other New Mortgage Loans on the Property you are Buying or Refinancing as Subordinate Lien.
4. The Automated Underwriting System must list assistance as subordinate financing.
5. The Declaration of Lien Interest must be reflected on the **Title Insurance Policy** for the first mortgage loan, although no additional title insurance is required. The document must be recorded to assure it is inferior only to the first mortgage. The mortgagee or title insurance company selects a short form or long form policy for the first mortgage. The following language is required for the policy type chosen:

Short Form: A policy Addendum/Endorsement is not required for the Declaration of Lien Interest. However, if the title insurance company chooses to issue said Addendum/Endorsement it must recite the following language under Schedule B, Part II: “In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the insured mortgage.”

Long Form: This policy requires the following language on Schedule B, Part II: “In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien of the insured mortgage.” When the long-form policy is used, all Start recording information is required on Schedule B, Part II.

12.06 Conditions of Repayment

- The Repayment Period expires when 96 monthly payments have been paid on the first mortgage.
- The Buyer must repay the pro-rated balance of the Start Assistance if the home is sold, refinanced, or otherwise transferred before the end of the Repayment Period that starts on the closing date of the first mortgage.
- The pro-rated balance owed is determined by how many monthly payments the Buyer has made on the first mortgage and is more particularly set forth in the Declaration of Lien Interest.
- At the end of the Repayment Period the Declaration of Lien Interest will automatically terminate.

12.07 Loan Packaging/Delivery

The following Start documents are to be included with the Program loan origination package:

- Recorded Declaration of Lien Interest.

SECTION 13 – RESERVED FOR FUTURE USE

SECTION 14 – HOMEACCESS PROGRAM

14.01 Introduction

HomeAccess provides low-interest mortgage loans to certain households who are **not** First-Time Homebuyers as defined in Section 4.01. **All other eligibility requirements for the program apply.** HomeAccess can only be used for purchase transactions. No refinancing of existing mortgages other than what is described in Section 6.12. The Agency will reserve up to 5 percent of its available loan funds each year for the program.

14.02 Eligible Households

There are four categories of eligible households:

- Household with at least one immediate family member permanently disabled (mentally or physically).
- Household with at least one immediate family member age 65 or older.
- A single-parent household with a dependent child residing in the home at least 50 percent of the time.
- A veteran who has served in the active-duty military and has been discharged or released under conditions other than dishonorable or who has re-enlisted but could have been discharged or released under conditions other than dishonorable.

An immediate family member is defined as being the mortgagor, mortgagor's spouse, and any dependent (e.g. child or adult) permanently residing in the home.

14.03 Determining Mortgagor Eligibility

Proof of prior residency to meet the First-Time Homebuyer requirement, as defined in Section 4.01, is not needed.

1. Permanently disabled means any long-term physical or mental disability. The permanent disability can be documented by a Social Security Disability Insurance (SSDI) award letter. If an SSDI award letter is not available, other methods of proof can be provided to the Agency for an eligibility determination.
2. For households with an immediate family member aged 65 or older, a driver's license or other legal document that proves the age of the family member is acceptable to determine eligibility.
3. For single-parent households, the Agency will rely on the borrower's disclosure on the Affidavit of Buyer as to the number of household members and the loan application that lists dependents and their ages to determine eligibility.
4. For eligibility as a veteran, the Agency will accept a copy of the discharge papers (Department of Defense Form 214, Certificate of Release or Discharge from Active Duty), showing his/her status to prove eligibility.

14.04 Loan Reservation/Loan Products

Follow the procedures described in Section 3 to reserve a HomeAccess loan. Choose a HomeAccess product on the Loan Reservation page and provide the required information.

SECTION 15 – NORTH DAKOTA ROOTS PROGRAM

15.01 Introduction

The program is to provide a secondary market option for households not eligible for the Agency's FirstHome programs.

Do not use any FirstHome documents, i.e. Tax-Exempt Financing Rider, when originating Roots loans.

15.02 Lender Participation

Lenders interested in participating in the Roots program must execute a North Dakota Roots Mortgage Purchase Agreement (Roots MPA) and Exhibit A. If you have not executed a Roots MPA previously, it is available under Selling Guide and Mortgage Loan Forms on the Agency's website. The agreement cannot be submitted electronically. It must be executed and the original agreement mailed to the Agency.

For Participating Lenders, the execution of the Roots MPA is considered an extension of their current relationship with the Agency. Therefore, a participation fee and attorney's opinion **are not** required.

15.03 Mortgagor Eligibility

1. **If the borrower qualifies for the Agency's FirstHome or HomeAccess program, they are not eligible for Roots.**
2. Borrower does **not** have to be a First-Time Homebuyer.
3. Loan amounts must meet the loan insurer/guarantor loan limits.
4. Borrower must meet standard credit criteria of Fannie Mae, Freddie Mac, or the loan insurer/guarantor. Credit review will be the responsibility of the lender. PMI and uninsured loans must be underwritten utilizing either Fannie Mae Desktop Underwriter (DU) or Freddie Mac Loan Prospector (LP). Only risk class of Approve (DU) or Accept (LP) will be acceptable. If Approve or Accept status cannot be achieved, but you still feel the loan should be approved, you may submit the loan to the Agency for review.

15.04 Property Requirements

Roots can be used to finance one- to four-unit properties. Roots Start can only be used for one- to two-unit properties. The Borrower must occupy the home or, in the case of multiple-unit properties, one of the units as their principal Residence within 60 days of closing and intend to maintain the property as their principal Residence according to the terms of their mortgage.

The maximum amount of land that can be financed along with the residential property is 40 acres. The primary and best use of the property must be residential as determined by the appraiser. All major systems (e.g. heating, cooling, plumbing, waste) must be located on the Roots financed property and there must be direct access to a publicly maintained road.

15.05 Loan Product Options

1. **North Dakota Roots**
 - a. First mortgage, 30-year term.
 - b. Roots interest rates are posted on the Agency's website.
 - c. Reservation lock periods: 60 days existing, 300 days new construction.
 - d. DCA is not available.
2. **North Dakota Roots Start** (same terms as FirstHome Start)

- a. First mortgage with purchase assistance equal to 3 percent of the total mortgage amount in all cases. There is no maximum or minimum amount. Do not round. Do not truncate the cents.
 - b. Lender provides a 3 percent credit at loan closing.
 - c. The Agency will purchase the first mortgage at 103 percent.
 - d. 30-year term.
 - e. Reservation lock periods: 60 days existing, 300 days new construction.
 - f. Interest rate: approximately 50 basis points higher than the Roots Standard interest rate, see the Agency's website for current rates.
 - g. See Section 12 of this Guide for further instructions on Start.
- 3. North Dakota Roots Refinance**
- a. First mortgage, 30-year term.
 - b. Roots interest rates are posted on the Agency's website.
 - c. Reservation lock periods: 60 days existing, 300 days new construction.
 - d. DCA & Start are not available
 - e. See Section 15.11 of this Guide for further instructions on refinances.

On Roots loans using subordinate financing (i.e. an 80-10-10 product), the Agency will make a loan level price adjustment (LLPA) based on the loan conditions. Contact the Agency to discuss specific details on a LLPA.

15.06 Loan Reservation

Like the FirstHome program, Roots loans are reserved on the Agency's website with interest rates locked in at the time the reservation is submitted and accepted. The Agency will provide a Roots Compliance Application and Section III of this document contains several questions to be answered by the lender related to eligibility for Roots. When the document is returned to the Agency with the questions answered, the Agency will review this preliminary information and issue a Roots Compliance Commitment.

Use the North Dakota Roots Mortgage Submission Voucher to submit Roots loans for purchase and loan package delivery. Roots documents available under Selling Guide and Mortgage Loan Forms on the Agency's website.

Loans must be delivered for purchase within 15 days of loan closing. When a mortgage loan is not delivered for purchase within 15 days of loan closing or a mortgage loan is delivered on time but cannot be purchased due to an incomplete file or incorrect documentation, a late delivery fee of 0.50 percent of the loan amount may be assessed for every 15 days late. These fees will be collected as a credit when the Agency purchases the loan.

15.07 Closing Costs/Fees/Points

Lenders may charge closing costs, fees and points that are necessary and customary to originate and close loans in their respective market. The Agency does not allow tax service fees or mark-ups on third-party costs to be charged to a borrower.

15.08 Loan Types/Terms

Loan documentation standards of the insurer/guarantor apply on all loans. If loans are uninsured, then Fannie Mae/Freddie Mac standards will apply. Title insurance is required on all loans.

The Agency will purchase the following types of mortgage loans for Roots:

1. FHA insured loans, including "buy downs." No GPM loans.

2. Rural Development Guaranteed Loans.
3. PMI insured conventional loans up to 97 percent LTV. The required PMI coverage is as follows:

LTV	Coverage
97% to 95.01	35%
95% to 90.01%	30%
90% to 85.01%	25%
85% and below	12%

Additionally, if the DU or LP underwriting decision (risk class) is less than Approve (DU) or Accept (LP) the Agency reserves the option to require a higher level of coverage than listed above. For instructions on how to request the Agency to review the file for a waiver of the Approve/Accept risk class see Section 1.08.

If you receive an Ineligible on your findings and it is due to subordinate financing (Start) or the LTV being above 95 percent, this is acceptable to the Agency.

We do allow Single Premiums and Split Premiums for Private Mortgage Insurance.

4. VA Guaranteed Loans that carry the maximum potential guarantee allowed by the VA.
5. Uninsured loans with 80 percent loan-to-value ratio or less and that are underwritten to Fannie Mae/Freddie Mac standards.
6. HUD Section 184 insured loans.

The maximum loan amount must comply with the current Fannie Mae/Freddie Mac conforming loan amount or the limits of the applicable loan insurer/guarantor.

Hazard and flood insurance requirements are the same as the FirstHome program, see Section 7.

15.09 Loan Assumption

North Dakota Roots loans are assumable subject to the underwriting standards of the mortgage insurer/guarantor or, in the case of an uninsured loan, the underwriting standards of Fannie Mae/Freddie Mac. The assuming borrower(s) must meet all the eligibility requirements for the Roots program in effect at the time of the assumption.

15.10 Non-Conforming Loans

A non-conforming loan may be eligible for purchase. To be eligible for purchase lender must submit loan file to NDHFA for review and approval before loan closes. If non-conforming loan is closed before NDHFA review and approval, loan may not be purchased.

15.11 Refinances

Transactions must follow the loan guarantor guidelines.

- If uninsured, then FNMA guidelines must be followed (Homestyle Renovation, HomeReady, High LTV refinances not eligible).
- Refinances allowed based on the loan guarantor's guidelines.

- Properties must be principal residence, no second homes or investment properties.
- Escrow accounts are required on all refinance transactions.