

CLOSING/POST CLOSING REQUIREMENTS

KHC PROGRAM GUIDE - JULY 26, 2010



Kentucky Housing
Corporation
Leading the way home...

KHC Program Guide

Closing and Post Closing

July 26, 2010

- Beginning with reservations on or after Monday, July 26, 2010, the Regular Down Payment Assistance Program (DAP) increases to \$4,000. Repayment will remain at 6% interest, but the term will increase to 7 years (84 months). A DAP of \$4,000 over 7 years at 6% interest would equal a monthly payment of \$58.44.



Loan Funding, Closing, and Delivery Requirements

Once the lender has obtained loan approval from Kentucky Housing Corporation (KHC) and the insuring or guaranteeing agency (or KHC-approved delegated underwriter), the lender can close the loan.

All loans must be closed and funded using KHC's funds by the expiration date on the reservation of funds letter. Failure to deliver the required documents by deadlines will result in the assessment of a late delivery penalty.

All conditions of loan approval must be met prior to or at closing. Proof that all conditions have been met must be provided in the closed loan package submitted to KHC.

Loan Funding and Servicing

- KHC will be the servicer of all of its first mortgage and second mortgage (DAP) loans.
- The lender **must** request funds from KHC for the closing of all loans.
- The lender must request funds through the Lender Loan Connection Services on KHC's Web site. Funding requests received by 1 p.m. (ET) will be funded the next business day or on the closing date, the later of the two dates.
- Loan closing must take place by the expiration date indicated on the written Reservation of Funds Form.
- **After requesting funding, print KHC closing forms. These documents are customized to loan type. Located on KHC's Web site, in the Lender's Loan Connection Services, Post Closing Section, "Print KHC Closing Forms."**

MERS

- KHC will have two (2) options based on lender's relationship with MERS.
 1. Level I Lenders that ARE MERS members (must close with MERS as of April 1, 2009).
 - ✓ Lender will generate MIN number and ensure it is on security instrument with MERS language.
 - ✓ Lender will enter their MIN number on KHC funding screen.
 - ✓ No assignment required.
 - ✓ Lender must register the loan in MERS naming KHC as the investor and servicer within five (5) calendar days of closing.
 - ✓ Lender must transfer and confirm the loan in MERS within ten (10) calendar days of closing.
 - ✓ Loan must be registered and transferred before closing package is received.
 2. Level I and Level II Lenders that ARE NOT MERS members
 - ✓ KHC will generate MIN number and provide the MIN number on the approval, and it will also be listed on the funding screen.
 - ✓ Lender must enter the MIN onto their generated security instrument with MERS language.
- **Recording Information** (final documents) MERS requires recording information to be added into MERS by 30 days after closing. Due to MERS requirements, KHC must have all recorded documents by 90 days after closing. KHC will enter this information into MERS.
- **Title Policies** – There are three options that are used:

1. Naming as the insured, "the Lender, its successors and assigns appearing of record as Mortgage Electronic Registration Systems, Inc."
2. Naming as the insured, "(originating Lender) and Mortgage Electronic Registration Systems, Inc., solely as nominee for Lender, its successors and assigns, as their interests may appear."
3. Naming as the insured, "Mortgage Electronic Registration Systems, Inc., as the beneficiary and Kentucky Housing Corporation as the beneficial Lender."

Closed Loan Delivery

- **Ten-Business Day Package** – All loans must be received by KHC on or before the tenth business day following loan closing. All required documents are identified on the closed loan checklist. Print this form from KHC's Web site under "Print KHC Closed Loan Checklist."
- **90-Calendar Day Package** – The lender is required to deliver the recorded mortgage, assignment, title policy and insuring certificate (FHA, VA and RHS) to KHC within 90 days of closing.
- **MUST HAVE ORIGINALS.**

Closing Agents

- An insured closing letter is required for all attorneys or closing agents that will be conducting the loan closing and must be provided to KHC if requested.
- The lender must provide KHC with the information needed to wire funds to the closing agent's escrow account through the Lender Loan Connection Services on KHC's Web site.

New Mortgage Loan

Mortgage Revenue Bond loans must be new mortgage loans, not refinances. One exception: the permissible take-out of a temporary initial loan, which has a term of 24 months or less.

Loan Term Amortization

- Term is for 30 years.
- Interest credit is not allowed.
- Interest calculation is based on 365 days.

Closing Costs

- Closing costs and other fees to be charged to borrower or seller must follow insuring agency guidelines. VA is most restrictive as to charges to borrower.
- **Underwriting Fee:** A \$385 Underwriting Fee can be charged and paid to Kentucky Housing Corporation or the lender that issues the commitment for FHA or VA. On RHS or conventional, the \$385 Underwriting Fee must be charged and paid to KHC. It will be withheld from funds requested by the lender to close the loan. If the lender is a Kentucky Housing-approved delegated lender, they will receive the Underwriting Fee on RHS and conventional loans, as well as FHA and VA. The Underwriting Fee must be included in block 1 on the second page of the GFE, "**Our Origination Charge.**" **VA borrower cannot pay.**

Loan Funding, Closing, and Delivery Requirements

Acceptable Fees and Charges to the Buyer or Seller Include:

- Fees which may be charged and **included in block 1, "Our Origination Charge,"** on the GFE include: Underwriting Fee \$385 (VA borrower cannot pay) and Origination Charges.
- Appraisal Charge – customary and reasonable. VA \$325 for Lexington, Louisville and Bowling Green and \$375 for all other counties, **included in block 3, "Required services that we select."**
- Tax Service Fee - \$75 (as of January 1) is withheld from funds to close loan and must be **disclosed in block 3, "Required services that we select."** (FHA/VA borrowers cannot pay – paid to KHC.)
- Title Exam and Insurance, Attorney Fee, **disclosed in block 4, "Title services and lender's title insurance."**
- Owners Title Insurance **disclosed in block 5.**
- Home Inspection Fee – up to \$300 **disclosed in block 6.**
- Recording Fees, **disclosed in block 7.**
- Unacceptable closing costs or fees for KHC first mortgage loans using MRB funds are as follows:
 - ✓ Application Fees – no such charges can be imposed.
 - ✓ KHC no longer permits the lender to charge Processing Fee to lender.
- Acceptable fees for KHC's second mortgage loans are as follows:
 - ✓ A \$50 DAP (Regular and all HOME Programs) document preparation fee, if prepared by a third party. Cannot charge this fee to borrower on VA loans.
 - ✓ Actual recording fees for the mortgage.

Cash Out at Closing

Cash paid to applicant at closing cannot exceed applicant's earned money/POCs. Any amount over should be applied as a principal reduction, first to the DAP loan (if applicable), otherwise, to the first mortgage.

Property Title

Property title is to be held by applicant in fee simple at time of loan closing.

Subordinate Financing

In addition to DAP, all other subordinate loans must be approved by KHC.

KHC Second Mortgage Loans (DAP) Closing Instructions

All KHC second mortgage programs:

- No future advance clauses are permitted in the first mortgage. Second mortgage and second note payable to KHC must be executed with closing of first mortgage.
- Second mortgage must be recorded immediately after first mortgage. No assignment of second mortgage loan by applicant is permitted.

Beginning January 1, 2010, second mortgage loans **MUST CLOSE** using a separate HUD-1. Net second mortgage amount should be on line 303. Proceeds will go on first mortgage HUD-1 on line 205 stating KHC Second Mortgage Loan.

- Principal reduction allowed for all KHC second mortgage programs. Place on HUD-1 lines 110, 111, or 112. Must read "Principal reduction for second mortgage." No minimum or maximum limit for a principal reduction first or seconds.

- If KHC's Regular DAP loan is obtained, these additional guidelines apply:
 - ✓ Each second mortgage note must be printed off KHC's Web site under "Print KHC Closing Forms."
 - ✓ **The loan has a seven-year term** with the first payment due on the first day of month beginning with same first payment date as first-mortgage loan.
 - ✓ The interest calculation to the end of the month for the second mortgage loan should appear on line 904 or 905 of HUD-1. Interest calculation to the end of the month must be submitted to KHC as a check with the closed loan documents.
 - ✓ The loan is due and payable upon sale, with some exceptions.
 - ✓ The final Truth in Lending Disclosure Statement on the second mortgage must be in KHC's name.
- With KHC's HOME DAP, HOME Family, and HOME Special loans, these additional guidelines apply:
 - ✓ Each second mortgage note must be prepared on KHC form 91, which must be printed off KHC's Web site under "Print KHC Closing Forms."
 - ✓ Each second mortgage loan instrument must be prepared on KHC form 92, which must be printed from KHC's Web site under "Print KHC Closing Forms."
 - ✓ Each has a term of five (5) years at 0% interest.

On anniversary date of note, one-fifth (1/5) of original principal amount is forgiven provided an event of default has not occurred.

Escrows for Incomplete Items

The Lender's DE underwriter will make the determination if escrows should be allowed. Expiration dates are as follows:

November-April – Due by May 15.

May-October – Due 30 days after closing.

KHC will not hold the funds. It is the lender's responsibility.

Hazard Insurance

Policy term must be for at least one year. Insurance must be in effect on date of loan closing. **Lender must not close loan with a binder.** The following are acceptable:

- Declaration Page
- Certificate or Evidence of Insurance
- Full Policy
- Condominium – Master policy listing individual unit. If master policy does not include interior (see Appendix X), need additional insurance in amount equal to one-half of the mortgage not including coverage for personal property.
- Monthly escrow for additional insurance is required.
- Maximum deductible equal to 5% of policy face amount, not to exceed \$5,000.
- Mortgagee clause must be endorsed to KHC, P.O. Box 4150, Frankfort, KY, 40604-4150.

Flood Insurance

If any portion of property is located in area determined to be in a special flood hazard area, lender must obtain flood insurance.

Loan Funding, Closing, and Delivery Requirements

Required Mortgage Appendices (Tax-Exempt Financing Rider)

All mortgages must close in the lender's name and be assigned to KHC.

- Tax-Exempt Financing Rider
- ✓ Beginning June 1, 2009, appendices A, C and E will be consolidated to one form.
- For manufactured homes – must have an “Affidavit of Conversion to Real Estate” and surrendered title.

Mortgage Note

For FHA and VA loans, the mortgage note must be prepared on the FHA- or VA-approved form. For RHS and Conventional loans, the note must be prepared on the Kentucky Fixed Rate Single-Family Fannie Mae Form (Form 3218) or the multi-state fixed rate note Fannie Mae (3200). Must use most current forms.

- **Endorsement to Note** – Please make sure your endorsements at foot of note read as follows:

Pay to the order of Kentucky Housing Corporation, without recourse.

By: _____ (signature line)

Name of Signer: _____ (printed)

It's: _____ (title)

Name of Lender (exactly as shown on page 1 of the note)

If you use an allonge, it must read as follows:

ALLONGE TO THE NOTE

Name of Borrower(s):

Address:

City:

Dollar Amount:

Date of Closing:

Pay to the order of Kentucky Housing Corporation, without recourse.

By: _____ (signature line)

Name of Signer: _____ (printed)

It's: _____ (title)

Name of Lender (exactly as shown on page 1 of the note)

Title Policy Requirements

- A title policy is required on all loans. Short forms are mandatory. **See KHC's Web site for example of exceptions on title policies that must be removed** – http://www.kyhousing.org/uploadedFiles/Lenders/Exceptions_on_Title_Policies.pdf?n=5026.
- KHC Level II or Level III Lenders – the short form title policy is mandatory. **Closing Agent must provide title policy. No third party title policies will be accepted.**

Survey

- KHC requires either a survey or KHC's Survey Certification (Form 56).
- KHC does not require survey to be provided if closing agent is able to obtain title insurance with affirmative coverage against loss or damage that would have been disclosed by an accurate survey.
- Borrower and title policy provider must sign KHC's Survey Certification (Form 56). KHC does not accept survey waivers.

HUD-1

- All loans require HUD-1 identifying parties and monies involved in transaction. **Interest credits are not permitted.**
- Lender credits are allowed on KHC loans.
- Principal reduction allowed for KHC first and second mortgages. No minimum or maximum limit for a principal reduction.
- Proration of taxes allowed when Seller agrees to pay all of borrower's closing costs. Lenders should close loan based on contract and insuring agency guidelines.
- First and second mortgages must close using separate HUD-1 Settlement Statements.
- Effective January 1, 2010, New HUD-1 Settlement Statement must be used.
- HUD-1 for KHC Second Mortgage must be in KHC's name.
KHC INFO FOR HUD-1: Kentucky Housing Corporation; 1231 Louisville Road, Frankfort, KY 40601

Appraisal Fees

KHC has established the following fees for all appraisal requests when KHC orders the appraisal for FHA and conventional loans.

- FHA/Conventional Appraisal Fee: \$325
- Final Inspection (if required): \$75

Originating lenders may collect the appraisal fee from the borrower if in compliance with MDIA. Originating lenders will be responsible for payment on all appraisal requests.

Notice to Buyers

Notice to Buyers (KHC Form 34) closing form is required on KHC MRB loans.

Power of Attorney (POA)

- **BUYER/SELLER** – KHC no longer approves POA's prior to closing. This will be the responsibility of the lender and closing agent. KHC will verify that the POA has authority to convey, transfer, or dispose of real property at post closing review.

Miscellaneous Closing Issues

- Non-purchasing spouse must sign the mortgage and appendix, Notice to Buyers (KHC Form 34) and Mortgagor Certification of Eligibility (KHC Form 6).
- Estate Sales – Need copy of court appointment showing who is authorized to sell the property.
- HUD/VA/Fannie Mae or bank repos – Sellers will not sign seller certification, revision agreement, or termite reports.

Wiring Information: Returning Funds

Contact Post Closing Manager, Carol Fadler, to obtain wiring information. The number is 502-564-7630 ext. 230 or by email: cfadler@kyhousing.org.

Loan Funding, Closing, and Delivery Requirements

Escrows for Taxes

KHC follows KRS 134.020 regarding tax payment. Statute states if taxpayer pays taxes by November 1, they are entitled to a 2% discount; therefore, in order to meet this requirement, KHC will pay taxes in October of every year.

- Closings from September to December – if tax bills HAVE NOT come out--lenders will collect taxes and HOLD FUNDS. Lenders are responsible for paying taxes. Title Policy to show taxes have been paid.
- New Construction and Existing property HUD-1 can show current tax on property (i.e., value on land or assessed value or homestead, etc.). KHC temporary coupon to show tax payment based to sales price.

Termite Report

- KHC will follow the insuring agency guidelines. Agencies that do not require termite reports are FHA, RHS, and Conventional loans. VA does require a termite report, does not allow the borrower to pay for the termite report and requires the report to be signed by both parties.
- If the termite report has been done, KHC requires a copy of the report. If the termite report shows damage to foundation, main beams, etc., and/or water in crawl or basement, this must be addressed. All infestation must be treated. Proof of treatment must be provided. Structural damage review may be provided by structural engineer or FHA fee inspector.
- If inspection waived, Termite Inspection Waiver (Form 99) must be signed.
- KHC does not accept partial treatment.

New Construction Soil Poisoning Report

Applies to FHA, RHS, and VA loans only

- NPCA-99A – Subterranean Termite Treatment Builder's Certificate and guarantee completed and signed by builder. Treatment type needs to be noted whether bait system, wood, or soil.

NPCA-99B – Construction Subterranean Termite Soil Treatment Report completed by the licensed pest control company only if soil was treated.

How to Correct Documents

- Here is one way to have mortgages corrected. This is a state law. It is always best policy to contact the county clerk on how to correct mortgages.

382.297 Amendment of recorded mortgage by affidavit of amendment.

A recorded mortgage may be amended by an affidavit of amendment prepared by an attorney to correct clerical errors or omitted information. An amendment may not change any term, dollar amount, or interest rate in the mortgage, unless signed by the mortgagor and secured party. The attorney preparing the affidavit shall certify in the affidavit that notice of filing the amendment has been given to the mortgagor by mailing a copy of the amendment to the mortgagor at the address shown on the original mortgage. A subsequent release of the mortgage releases any amendments to the original mortgage.

(Effective: July 1, 2006. **History:** Created 2006 Ky. Acts ch. 183, sec. 19, effective July 12, 2006.)

- Mobile Homes – When an Affidavit of Affixation was used, it must be corrected to have the Affidavit of Conversion to Real Estate. E-mail khcpc@kyhousing.org to request this document.