Section B. Transactions Affecting Maximum Mortgage Calculations

Overview

In This Section

This section contains the topics listed in the table below.

1. Transactions Affecting Maximum Mortgage Calculations

Change Date

March 24, 2011

4155.1 2.B.1.a Types of Transactions Affecting Maximum Mortgage Amount

Certain types of loan transactions affect the amount of financing available to a borrower and how the maximum mortgage amount is calculated. These transactions include

- identity-of-interest
- properties with non-occupying coborrowers
- three- and four-unit properties
- properties where a house will be constructed by a borrower
  – on his/her land, and/or
  – as a licensed general contractor
- payoffs of land contracts, and
- transactions involving properties
  – under construction, or
  – less than a year old.

Note: Unless otherwise stated in this handbook, the mortgage calculation procedures described in HUD 4155.1 2.A.2 also apply.

2. Identity-of-Interest Transactions

Introduction

This topic contains information on identity-of-interest transactions, including

- definition of the term *identity-of-interest transaction*
- maximum LTV on identity-of-interest transactions, and
- exceptions to the maximum LTV for identity-of-interest transactions.

Change Date

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4155.1 2.B.2.a Definition: Identity-of-Interest Transaction

An ***identity of interest transaction*** is a sale between parties with family or business relationships.

4155.1 2.B.2.b Maximum LTV on Identity-of-Interest Transactions

The maximum loan-to-value (LTV) factor for identity-of-interest transactions on principal residences is restricted to 85%.

Continued on next page

2. Identity-of-Interest Transactions, Continued

4155.1 2.B.2.c Exceptions to the Maximum LTV for Identity of Interest Transactions

Financing above the 85% maximum for identity-of-interest transactions is permitted under certain circumstances, as described in the table below.

Exception	Description
Family Member Purchase	A family member purchases another family member's home as a principal residence. If the property is sold from one family member to another and is the seller's investment property, the maximum mortgage is the lesser of • 85% of the appraised value, or • the appropriate LTV factor applied to the sales price, plus or minus required adjustments. ***Note***: The 85% limit may be waived if the family member has been a tenant in the property for at least six months immediately predating the sales contract. A lease or other written evidence must be submitted to verify occupancy. ***Reference***: For a definition *family member*, see HUD 4155.1 9.1.f.
Builder's Employee Purchase	An employee of a builder purchases one of the builder's new homes or models as a principal residence.

Continued on next page

2. Identity-of-Interest Transactions, Continued

4155.1 2.B.2.c Exceptions to the Maximum LTV for Identity of Interest Transactions (continued)

Exception	Description
Tenant Purchase	A current tenant, including a family member tenant, purchases the property where he/she has rented for at least six months immediately predating the sales contract. ***Note***: A lease or other written evidence to verify occupancy is required. The maximum mortgage calculation is not affected by a sales transaction between a tenant and a landlord with no identity-of-interest relationship.
Corporate Transfer	A corporation • transfers an employee to another location • purchases the employee's home, and • sells the home to another employee.

3. Non-Occupying Borrowers

Introduction

This topic contains information on non-occupying borrowers, including

- definition of the term *non-occupying borrower transaction*
- maximum LTV for non-occupying borrower transaction
- signature requirements for non-occupying borrowers
- restrictions on non-occupying borrower transactions, and
- underwriting criteria for non-occupying borrowers.

Change Date

March 24, 2011

4155.1 2.B.3.a Definition: Non-Occupying Borrower Transaction

A ***non-occupying borrower transaction*** involves two or more borrowers where one or more of the borrower(s) will not occupy the property as his/her primary residence.

4155.1 2.B.3.b Maximum LTV for Non-Occupying Borrower Transaction

When there are two or more borrowers, but one or more will *not* occupy the property as his/her principal residence, the maximum mortgage is limited to 75% loan-to-value (LTV). However, maximum financing, as described in HUD 4155.1 2.A.2, is available for

- borrowers related by blood, marriage, or law, such as
  - spouses
  - parents-children
  - siblings
  - stepchildren
  - aunts-uncles, and
  - nieces-nephews, or
- unrelated individuals who can document evidence of a longstanding, substantial family-type relationship *not arising out of the loan transaction*.

Note: If a parent is selling to a child, the parent cannot be the coborrower with the child, unless the LTV is 75% or less.

Continued on next page

3. Non-Occupying Borrowers, Continued

4155.1 2.B.3.c Signature Requirements for Non-Occupying Borrowers

All borrowers, regardless of occupancy status, must sign the security instrument and mortgage note.

Note: Cosigners do not execute the security instrument or take title, but they must sign the mortgage note.

4155.1 2.B.3.d Restrictions on Non-Occupying Borrower Transactions

If the LTV exceeds 75%, a mortgage with non-occupying borrower(s) is limited to a one-unit property.

The non-occupying borrower arrangement may *not* be used to develop a portfolio of rental properties. The financial contribution by the non-occupying borrower and the number of properties owned may indicate that the family members are acting as "strawbuyers."

4155.1 2.B.3.e Underwriting Criteria for Non-Occupying Borrowers

FHA does not require that additional underwriting criteria, such as specific qualifying ratios, be met by either

- non-occupying borrowers, or
- occupying borrowers with sufficient credit.

However, additional FHA underwriting criteria *do* apply to occupying borrowers with insufficient credit. Lenders must judge each transaction on its merits.

Reference: For information on underwriting criteria for borrowers with insufficient credit, see HUD 4155.1 4.C.3.c.

4. Transactions Involving Three and Four Unit Properties

Introduction

This topic contains information on transactions involving three and four unit properties, including

- three and four unit property mortgage limit
- the monthly payment calculation for three and four unit properties
- net rental income calculation for three and four unit properties, and
- mortgage reserves for three and four unit properties.

Change Date

March 24, 2011

4155.1 2.B.4.a Three and Four Unit Property Mortgage Limit

The maximum mortgage amount for three and four unit properties is limited so that the ratio of the monthly mortgage payment divided by the monthly net rental income does not exceed 100%, regardless of the occupancy status.

Form HUD 92561, *Borrower's Contract with Respect to Hotel and Transient Use of Property* is required at application for all multi-unit properties.

Note: The calculations described in the remainder of this topic are *in addition to* the calculations found in HUD 4155.1 2.A.

Reference: For information on calculating monthly net rental income, see HUD 4155.1 2.B.4.c.

4155.1 2.B.4.b Monthly Payment Calculation for Three and Four Unit Properties

The monthly mortgage payment calculation for three and four unit properties includes

- Principal, Interest, Taxes, and Insurance (PITI), including
  – monthly mortgage insurance, and
  – hazard insurance, and
- Homeowners' association (HOA) dues computed at the note rate, if applicable.

Reference: For more information on the maximum mortgage amounts, see
- HUD 4155.1 2.A.1, and
- HUD 4155.1 2.A.2.

Continued on next page

4. Transactions Involving Three and Four Unit Properties, Continued

4155.1 2.B.4.c Net Rental Income Calculation for Three and Four Unit Properties

Net rental income is used to determine the maximum loan amount for three and four unit properties, as described in HUD 4155.1 2.B.4.a. Net rental income is calculated by

- using the appraiser's estimate of fair market rent from all units, including the unit the borrower chooses for occupancy, and
- subtracting the *greater* of the
  - appraiser's estimate for vacancies, or
  - vacancy factor used by the jurisdictional Homeownership Center (HOC).

The borrower must still qualify for the mortgage based on

- income
- credit
- cash to close, and
- projected rents received from remaining units.

Projected rent may only be considered as gross income for qualifying purposes. It cannot be used to offset the monthly mortgage payment.

4155.1 2.B.4.d Mortgage Reserves for Three and Four Unit Property

For three and four unit properties, the borrower *must* have personal reserves equivalent to three months' PITI after closing on a purchase transaction. Reserves cannot be derived from a gift.

References: For more information on
- mortgage reserves, see
  - HUD 4155.1 4.E.5.d, and
  - HUD 4155.1 4.F.3.b, and
- TOTAL Scorecard and mortgage reserves, see the *TOTAL Mortgage Scorecard User Guide.*

5. Loan Transactions for Building on Own Land

Introduction

This topic contains information on loan transactions for building on land the borrower already owns, including

- financing limits when building on own land
- LTV limits when building on own land
- equity as cash investment when building on own land, and
- borrower's required cash investment when building on own land.

Change Date

March 24, 2011

4155.1 2.B.5.a Financing Limits When Building on Own Land

A borrower is eligible for maximum financing if he/she

- acts as a licensed general contractor and is building a home on land that he/she already owns or acquires separately, and
- receives no cash from the settlement.

4155.1 2.B.5.b LTV Limits When Building on Own Land

When building on a borrower's own property, the appropriate loan-to-value (LTV) limits are applied to the *lesser* of the

- appraised value of the proposed home and land, or
- documented cost of the property.

The documented cost of the property includes the

- builder's price, or sum of all subcontractor bids and materials
- cost of the land (if the land has been owned more than six months or was received as an acceptable gift, the *value* of the land may be used instead of its cost), and
- interest and other costs associated with any construction loan obtained by the borrower to fund construction of the property.

Continued on next page

5. Loan Transactions for Building on Own Land, Continued

4155.1 2.B.5.c Equity as Cash Investment When Building on Own Land

Equity in the land (value or cost, as appropriate, minus the amount owed) may be used for the borrower's entire cash investment. However, if the borrower receives more than $500 cash at closing, the loan is limited to 85% of the appraised value.

Replenishing the borrower's own cash expended during construction is *not* considered "cash back," provided that the borrower can substantiate with cancelled checks and paid receipts all out-of-pocket funds used for construction.

4155.1 2.B.5.d Borrower's Required Cash Investment When Building on Own Land

In order to determine if a borrower has made the required 3.5% cash investment or its equivalent in land equity when building on his/her own land, all such mortgage transactions must be summarized using only HUD-92900-LT, *FHA Loan Underwriting and Transmittal Summary*.

Lenders must record the sum total of the *documented* cost of the property, as defined in HUD 4155.1 2.B.5.b.

Additionally, the calculated LTV ratio (which is to be the same value used when seeking a risk classification from FHA's Technology Open To Approved Lenders (TOTAL)), must reflect, as it does on other purchase transactions, the *lesser* of the

- sales price, or
- appraised value.

6. Loan Transactions for Paying Off Land Contracts

Introduction

This topic contains information on loan transactions to pay off land contracts, including

- financing limit when paying off land contracts
- LTV ratio when paying off land contracts, and
- equity as cash investment when paying off land contracts.

Change Date

March 24, 2011

4155.1 2.B.6.a Financing Limit When Paying Off Land Contracts

If a borrower does *not* receive cash at closing, his/her new mortgage may be processed as a purchase or refinance transaction with maximum FHA-insured financing if he/she uses the loan to complete payment on a

- land contract
- contract for deed, or
- other similar financing arrangements in which the borrower does not have title to the property.

Lenders should process cash-out transactions to pay off land contracts, or refinances on properties subject to ground rents as if they were cash-out refinances on properties held in fee simple, as described in HUD 4155.1 3.B.2.

Reference: For more information on cash back to the borrower when paying off land contracts, see HUD 4155.1 2.B.6.c.

Continued on next page

6. Loan Transactions for Paying Off Land Contracts, Continued

4155.1 2.B.6.b LTV Ratio When Paying Off Land Contracts

If the property was acquired fewer than 12 months earlier, and the loan proceeds are to be used to pay off the outstanding balance on the land contract, plus eligible repairs and renovations, the loan-to-value (LTV) ratio is applied to the *lesser* of the

- appraised value of the land and improvements, or
- total cost to acquire the property, which includes the original purchase price, plus any documented costs the borrower incurs for rehabilitation, repairs, renovation, or weatherization, closing costs and reasonable discount points, if treated as a refinance.

References: For additional information on
- refinances, see HUD 4155.1 3.B.1, and
- use of rent credits, see HUD 4155.1 5.B.6.f.

4155.1 2.B.6.c Equity as Cash Investment When Paying Off Land Contracts

Equity in the property (original sales price minus the amount owed) may be used for the borrower's entire cash investment. However, if the property was acquired fewer than 12 months earlier, and the borrower receives more than $500 cash at closing, the loan is limited to 85% of the *lesser* of the

- appraised value of the land and improvements, or
- total cost to acquire the property, which includes the original purchase price, plus any documented costs the borrower incurs for rehabilitation, repairs, renovation, weatherization, closing costs and reasonable discount points, if treated as a refinance.

Replenishing the borrower's own cash expended for repairs, improvements, renovation, or weatherization is *not* considered "cash back," provided that the borrower can substantiate with cancelled checks and paid receipts all out-of-pocket funds for the improvements.

7. Transactions Involving Properties for Proposed Construction, Under Construction or Existing Construction Less Than One Year Old

Introduction

This topic contains information on transactions involving properties for proposed construction, under construction or existing construction less than one year old, including

- financing limit for proposed, under construction or existing less than one year, and
- criteria for maximum financing for proposed, under construction or existing less than one year.

Change Date

March 24, 2011

4155.1 2.B.7.a Financing Limit for Proposed, Under Construction or Existing Less than One Year

Properties that are proposed, under construction or existing construction less than one year old are limited to 90% financing, calculated by using the *lesser* of the

- appraiser's estimate of value, or
- sales price, plus or minus required adjustments for
  - seller contributions
  - inducements to purchase, and/or
  - additions to the mortgage amount.

Reference: For more information on required adjustments, see HUD 4155.1 2.A.

Continued on next page

7. Transactions Involving Properties for Proposed Construction, Under Construction or Existing Construction Less Than One Year Old, Continued

4155.1 2.B.7.b Criteria for Maximum Financing for Proposed, Under Construction or Existing Less than One Year

The table below describes the criteria that properties must meet to be eligible for greater than 90% financing, whether or not the property has been previously occupied.

One of these criteria must be evidenced in order for the borrower to be eligible for a high ratio mortgage.

Criteria	Description
Approval of Dwelling Site Plans	The dwelling's site plans and materials were approved before construction began by • the Department of Veterans Affairs (VA) • an eligible Direct Endorsement (DE) underwriter, through issuance of a(n) – Conditional Commitment prior to framing, or – early start letter.
Local Jurisdiction Building Permit and Certificate of Occupancy	The local jurisdiction has issued both a • building permit or its equivalent prior to construction, and • Certificate of Occupancy (CO) or equivalent. ***Note***: This does not apply to condominiums or manufactured housing. These properties have special circumstances for financing approval.
Builder's Warranty	The dwelling is covered by a builder's ten-year insured warranty plan that is acceptable to HUD.
Dwelling Relocation	The dwelling • will be moved to a new location, and • is eligible for an insured mortgage at the new location based on approval of the dwelling site plan criteria listed previously in this table.

8. Manufactured Home Construction-Permanent Loans

Introduction

This topic contains information on construction-permanent (CP) loans for manufactured homes, including

- manufactured home CP loan is a purchase transaction
- maximum mortgage amount for manufactured home CP loan
- property status for a manufactured home
- length of ownership for a manufactured home
- formulas for maximum mortgage amount on a manufactured home CP loan
- maximum mortgage calculation for manufactured home CP loan based on total cost or itemized value
- maximum mortgage calculation for manufactured housing CP loan based on allowable LTV
- maximum mortgage calculation for manufactured home CP loan based on existing indebtedness, and
- additional concerns for calculating the maximum mortgage amount on manufactured home CP loan.

Change Date

March 24, 2011

4155.1 2.B.8.a Manufactured Home CP Loan is a Purchase Transaction

For purposes of underwriting and calculating the maximum mortgage amount, the construction-permanent (CP) loan on a newly-constructed manufactured home should be considered a purchase loan transaction, requiring a minimum 3.5% cash investment of the Total Cost or Itemized Value (including land).

To maintain consistency with FHA Connection (FHAC) data requirements and the Uniform Residential Loan Application (URLA), the purpose of the loan transaction should be designated as "CP."

References: For more information on
- construction permanent loan characteristics and requirements, see HUD 4155.1 6.A, and
- Total Cost and Itemized Value, see HUD 4155.1 2.B.8.e.

Continued on next page

8. Manufactured Home Construction-Permanent Loans, Continued

4155.1 2.B.8.b Maximum Mortgage Amount for Manufactured Home CP Loan

To determine the maximum insurable mortgage amount for a manufactured housing CP transaction, the lender must consider the

- property status
- length of ownership, and
- accepted formula to determine value.

The length of time the property was owned in a given property status will determine if a transaction is considered a CP or refinance transaction. CP transactions involve manufactured homes with acceptable property status that are

- proposed for construction
- under construction, or
- existing construction less than 12 months old.

References: For more information on
- maximum mortgage amount calculations on refinance transactions, see
  - HUD 4155.1 3.A.1.i, and
  - HUD 4155.1 6.A
- property status, see HUD 4155.1 2.B.8.c
- length of ownership, see HUD 4155.1 2.B.8.d, and
- accepted formulas to determine value, see HUD 4155.1 2.B.8.e.

4155.1 2.B.8.c Property Status for a Manufactured Home

Property status refers to whether or not the property is classified or taxed as real property and whether the personal property title has been purged in compliance with state law.

Reference: For more information on purging personal property title on a manufactured home, see HUD 4155.2 6.A.1.j.

Continued on next page

8. Manufactured Home Construction-Permanent Loans, Continued

4155.1 2.B.8.d Length of Ownership for a Manufactured Home

Length of ownership refers to how long the prospective borrower has held an ownership interest in the manufactured housing unit and land.

4155.1 2.B.8.e Formulas for Maximum Mortgage Amount on a Manufactured Home CP Loan

The accepted formula to determine *Total Cost or Itemized Value* refers to calculating the mortgage amount based on the

- total cost or itemized value
- maximum allowable loan-to-value (LTV) percentages, and
- existing indebtedness.

The maximum insurable mortgage amount is determined by the lowest result of the calculations using the three formulas above.

In a CP transaction, itemized value should be applied when the manufactured home unit, the land, or both have been owned for 6 months or more, and fewer than 12 months. If either the unit or the land has been owned for fewer than 6 months, the lesser of total cost or itemized value should be applied.

Evidence must be provided to certify how long the borrower has owned the land and/or manufactured unit. A contract or payoff statement for the land is required if it is currently encumbered by a lien payable by the borrower.

References: For more information on the formulas used to determine the maximum mortgage amount on a manufactured home CP loan based on
- total cost or itemized value, see HUD 4155.1 2.B.8.f
- maximum allowable LTV percentages, see HUD 4155.1 2.B.8.g, and
- existing indebtedness, see HUD 4155.1 2.B.8.h.

Continued on next page

8. Manufactured Home Construction-Permanent Loans, Continued

4155.1 2.B.8.f Maximum Mortgage Calculation for Manufactured Home CP Loan Based on Total Cost or Itemized Value

1. Mortgage Amount based on Total Cost or Itemized Value

a. Total Cost or Itemized Value:

Unit ______
Land ______ ______

OR

Combined Construction ______ ______

Hard Costs ______
Soft Costs ______ ______

Total Cost or Itemized Value Cost ______

b. Minimum Cash Investment:

Total Cost or Itemized Value from 1a
x 3.5% Required Statutory Investment ______

c. Subtract Minimum Cash Investment from Total Cost or Itemized Value

Amount based on Total Cost or Itemized Value (1a-1b) ______

4155.1 2.B.8.g Maximum Mortgage Calculation for Manufactured Home CP Loan Based on Allowable LTV

2. Amount based on Maximum Allowable Loan-to-Value Percentages

Lesser of Total Cost or Itemized Value or Appraised Value x Applicable Maximum Loan-to-Value Percentage: 96.5% for purchase transactions

Amount based on Maximum Allowable Loan-to-Value Percentages ______

Continued on next page

8. Manufactured Home Construction-Permanent Loans, Continued

4155.1 2.B.8.h Maximum Mortgage Calculation for Manufactured Home CP Loan Based on Existing Indebtedness

3. Amount Based on Existing Indebtedness

Unit			______	
Less Trade-in			(______)	
Land			______	
Construction				
Hard Costs	______			
Soft Costs	______			
		______		
Borrower Paid:				
Discount Points		______		
Prepaids		______		
Closing Costs			______	
Amount Based on Existing Indebtedness				______

Continued on next page

8. Manufactured Home Construction-Permanent Loans, Continued

4155.1 2.B.8.i Additional Concerns for Calculating the Maximum Mortgage Amount on Manufactured Home CP Loan

Financing on a manufactured home being constructed and installed is considered a construction loan or construction line-of-credit. Associated construction financing costs are to be itemized on a draw request or cost breakdown form. The loan file must include the contract or sales invoice for the manufactured home unit and the contract for the land.

The construction loan [hard] costs and construction loan financing [soft] costs must be identified. The lender may obtain and provide information from the general contractor or another party who has knowledge of the related costs for completion of required work items.

The major installation charges require supporting documentation and separate invoices for the manufactured unit and the contractor's foundation and set-up costs. Razing and removing existing properties is considered part of the site preparation and may be included in the calculations as a component of the construction costs.

If the manufactured home dealer is the general contractor for the foundation and installation, the cost of the unit and additional charges must be itemized on an invoice. Aggregate amounts for total costs are not acceptable.