

6. Family Member Secondary Financing

Introduction This topic contains information on secondary financing provided by a family member, including

- the definition of the term ‘family member’
 - how a family member can help with a property purchase
 - the amount permitted on a family member loan
 - restriction on a borrower being a co-obligor on the Note securing a borrowed down payment, and
 - additional policies regarding financing terms and conditions.
-

Change Date May 10, 2009

4155.1 5.C.6.a For a definition of the term *family member*, see [HUD 4155.1 9](#).
Definition:
Family
Member

Continued on next page

6. Family Member Secondary Financing, Continued

**4155.1 5.C.6.b
How a Family
Member Can
Help With
Property
Purchase**

Family members may assist with the costs of acquiring a new home in the form of a loan.

Only the family member provider(s) may be the Note holder if the money lent is secured against the subject property.

FHA will *not* approve any form of securitization of the Note that results in any entity other than the family member being the noteholder, whether at loan settlement, or any time during the mortgage life cycle.

**4155.1 5.C.6.c
Amount
Permitted on a
Family
Member Loan**

FHA permits a family member to lend, on a secured or unsecured basis, a maximum of 100 percent of the borrower's required funds to close, including

- down payment
 - closing costs
 - prepaid expenses, and
 - discount points.
-

**4155.1 5.C.6.d
Restriction on a
Borrower Being
a Co-Obligor
on the Note
Securing a
Borrowed
Down Payment**

When the funds loaned by the family member are borrowed from an acceptable source, the borrower may *not* be a co-obligor on the Note.

Example: A son or daughter in law may not be co-obligors on the Note used to secure the money borrowed by the parents that, in turn, was loaned to the borrower for the down payment on the property.

Continued on next page

6. Family Member Secondary Financing, Continued

4155.1 5.C.6.e The table below describes additional policies regarding the various financing terms and conditions for loans secured with family member secondary financing.

Additional Policies Regarding Financing Terms and Conditions

Financing Category	Policy Description
Maximum insurable mortgage	The maximum insurable mortgage amount is <i>not</i> affected by loans from family members.
Combined financing amount	<p>The combined amount of financing may not exceed 100 percent of</p> <ul style="list-style-type: none"> • the <i>lesser</i> of the property’s <ul style="list-style-type: none"> – appraised value, or – sales price, plus • the normal closing costs, prepaid expenses, and discount points.
Borrower cash back	While a family member may lend 100 percent of the borrower funds to close requirement, cash back to the borrower at closing (beyond the refund of any earnest money deposit) is <i>not</i> permitted.
Secondary financing payments	<p>If periodic payments of the secondary financing are required, the combined payments may not exceed the borrower’s reasonable ability to pay.</p> <p>Note: The secondary financing payments must be included in the total debt to income ratio (that is, the “back end” ratio) for qualifying purposes.</p>
Second lien balloon payments	The second lien may <i>not</i> provide for a balloon payment within five years from the date of execution.

Continued on next page

6. Family Member Secondary Financing, Continued

4155.1 5.C.6.e Additional Polices Regarding Financing Terms and Conditions (continued)

Financing Category	Policy Description
Family member supplying borrowed funds	<p>If the family member providing the secondary financing borrows the funds, the lending source may <i>not</i> be an entity with an identity-of-interest in the sale of the property, such as</p> <ul style="list-style-type: none"> • the seller • a builder • the loan officer, or • the real estate agent. <p>Mortgage companies that have retail banking affiliates may have that entity loan the funds to the family member. However, the terms and conditions for the loan that will be used for the secondary mortgage cannot be more favorable than it would be for other borrowers.</p> <p>Example: There may <i>not</i> be any special consideration given between</p> <ul style="list-style-type: none"> • the making of the mortgage, and • the lending of funds to family members to be used for secondary financing for the purchase of the home.
Secondary financing document retention	<p>An executed copy of the document describing the terms of the secondary financing must be maintained in the lender's file. An executed copy must also be provided in the endorsement binder.</p>