

ESCROW HOLDBACK GUIDELINES

Escrow Holdbacks for Conventional Loans

Escrow Holdbacks are funds collected at loan closing for property completion and/or repairs that remain incomplete after the closing of the loan. Escrow holdbacks shall be placed in a non-interest-bearing account. The lender may escrow for these items and deliver the loan to MassHousing prior to the release of the escrow as long as the incomplete items do not affect the safety, soundness or structural integrity of the subject property and the total cost of the repairs do not exceed \$5,000.

Acceptable Scope of work

Existing properties

When the appraisal report is completed “as is”, the condition of the property must be reflected in the appraiser’s opinion of value, and the lender is not required to ensure that the work is complete in order for the loan to be saleable to MassHousing.

When the appraisal report is completed “subject to”, the Lender may use an escrow holdback for minor repairs or deferred maintenance items that do not affect the safety, soundness or structural integrity of the property. The escrow holdback items may include, but not limited to:

- Worn floor finishes or carpet
- Exterior painting
- Minor exterior plumbing leaks
- Replacement of window glass and/or screens
- Seeding, grading, landscaping, driveway

Lender may use an escrow holdback for private septic repairs on Conventional loan products when the Septic Repair Requirements below are met.

New Construction

Lenders may use an escrow holdback on newly constructed properties for items that remain incomplete at time of closing. These items may include:

- Items that are part of the sales contract;
- Items that are postponed due to inclement weather or a shortage of building materials;
- Items that do not affect the ability to obtain an occupancy permit.

Septic Repair Requirements

A satisfactory septic inspection in accordance with Title 5 of the Massachusetts Environmental Code is required for private sewerage systems. When a property with a private septic system fails to receive a passing septic inspection, MassHousing will allow an escrow holdback for septic repairs when the following requirements are met:

- The inspection of the private septic system by the Board of Health receives a “conditionally passed” determination.
- A Septic repair plan is complete and approved by the Board health guaranteeing that the system, once repaired, will pass inspection. This can also include connecting to an available public sewer system.
- The total cost of repairs cannot exceed \$25,000.

Note: Escrow Holdbacks are NOT allowed on Septic Systems that are determined “Failed”. The borrower may finance the repairs under one of our first mortgage products subject to our stated maximum LTV/CLTV requirements. See Seller Guide Section 3.9.7; Rehabilitation Feature for more information.

Escrow Holdbacks for FHA Insured Loan Requirements

Acceptable Scope of work

The Lender may establish an Escrow Holdback for incomplete construction, alterations and/or repairs in which the work cannot be completed prior to loan closing, and provided the repairs are not required to meet FHA’s minimum property standards, and the housing is habitable and safe for occupancy at the time of loan closing. The escrow holdback items may include:

- Exterior repairs and/or improvements not completed prior to closing due to weather related delays.
- Repairs not required to meet FHA’s minimum property standards, such as exterior painting or/and landscaping.

Escrow holdbacks are not allowed for structural repairs, foundation work, septic repairs and roofs.

Escrow Holdback Documentation

When the lender uses an escrow holdback, the lender is responsible for the collection and review of the following documentation:

- Escrow Holdback Agreement signed by all borrower(s), seller(s) and lender;
- Itemization of the scope work;
- Two bids for repairs/improvements/cost to complete repairs;
- Signed contract by the borrower and contractor;
- Construction schedule;
- Verification of sufficient funds to complete the required repairs. Lenders should follow AUS along with standard requirements for documentation of assets/funds to close.

Closing Requirements

Lenders are responsible to inform the closing agent of the following requirements:

- Escrow Holdback Agreement must be executed by the borrower(s), seller(s) and lender;
- For a Septic Holdback, the lender must use the MassHousing Escrow Agreement for Postponed Septic Improvements Form;
- Signed contract by the borrower and contractor

Escrow Instructions for the Holdback Funds

Management of Escrow Account

- Escrow holdback must be equal to the greater of 150% of the estimated repair costs or \$500;
- Escrow Funds must be held in a non-interest-bearing account;
- The closing agent or lender must hold the funds. In no event may *any* other party hold the funds to the transaction (i.e., contractor, seller or borrower);
- Payments to the contractor are to be made payable to both the contractor and borrower.

Evidence of Completion

Conventional Loan Programs

Repairs must be completed within **60 days** of the Note date.

The lender will be responsible for:

- Confirming the repairs are completed in a workmanship manner;
- Confirming receipt of final invoice;
- Release funds/close out Escrow Account.
- Upload completion documents to [eMassHousing](#).

Lenders must obtain a final title report, which must not show any outstanding mechanic's liens, take any exceptions to the postponed improvements, or take any exceptions to the escrow agreement.

A Certificate of Completion FNMA FORM 1004D must be obtained from the appraiser to verify the improvements were completed in accordance with the requirements and conditions of the original appraisal; and be accompanied by photographs of the completed improvements.

- When the escrow holdback is for the repair of a private septic system or connecting to an available public sewer system;
 - The lender will order the final inspection from the local Board of Health and obtain a Completion Certificate;
- The local Board of Health must complete the inspection and issue a passing certificate.

FHA Insured Loans

Repairs must be completed within **60 days** of the Note date. The Borrower must certify on form HUD 90251, *Compliance Inspection Report*, that the incomplete construction, alterations and repairs have been satisfactorily completed.

The lender is responsible for:

- Confirming the repairs are complete in a workmanship manner;
- Completing HUD FORM 92300, *Mortgagee's Assurance of Completion* (required in all cases);
- Confirming receipt of final invoice;
- Release funds/close out Escrow Account;
- Upload completion documents to [eMassHousing](#)
- After the work is complete and repair escrow account is closed out, the LENDER must complete the Escrow Closeout Certification screen in FHAC no later than 30 Days of completion.

Lenders must obtain a final title report, which must not show any outstanding mechanic's liens, take any exceptions to the postponed improvements, or take any exceptions to the escrow agreement.

Failure to Complete the Repairs

Lenders are to inform MassHousing when the repairs have not been completed within the required timeframe. MassHousing will grant an extension based on our determination if the construction will be complete within the term of the requested extension. Otherwise, the loan may be subject to repurchase by the lender.