

**Vermont Department of Financial Regulation
Banking Division**

**REGULATION B-2018-02
(Supersedes and Replaces Regulation B-98-1)**

**Form, Content & Timing of
Residential Real Estate Mortgage Loan Commitment Letters**

October 1, 2018

Section 1. Authority, Scope and Purpose

This regulation is promulgated pursuant to Title 9 V.S.A. §103, and applies to every mortgage loan, as hereinafter defined. Title 9 V.S.A. §§103 (a) and (b) require that lenders issue commitment letters in connection with residential mortgage loans. Title 9 V.S.A. §103(c) grants the Commissioner the authority to promulgate rules specifying the form, content, and timing of commitment letters required by §§103 (a) and (b). The purposes of this regulation are to create the minimum framework within which commitment letters are to be issued in this state and to encourage complete and timely disclosure of information in the furtherance of consumer protection.

Section 2. Definitions

For the purposes of this regulation, the following terms shall be defined as set forth herein:

Borrower means a person or persons to whom credit is extended in a transaction in which a lender takes a security interest against residential real estate used or to be used by such person or persons as a dwelling.

Closing means the time a borrower executes a note or a mortgage, or becomes contractually obligated on a credit transaction, whichever occurs sooner.

Dwelling means an owner occupied residential structure that contains one to four units. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.

Mortgage loan means any loan primarily for personal, family, or household purposes that is secured by a first lien on owner occupied residential real estate, including first and second homes.

NMLS means the Nationwide Multistate Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensees, or any successor to the Nationwide Multistate Licensing System and Registry.

Residential real estate means any real property located in Vermont, upon which is constructed or intended to be constructed a dwelling.

Reverse mortgage loan means a mortgage loan that:

(A) is a loan wherein the committed principal amount is secured by a mortgage on residential real estate owned by the borrower;

(B) is due upon sale of the property securing the loan or upon the death of the last surviving borrower or upon the borrower terminating use of the real property as a principal residence or upon the borrower's default;

(C) provides cash advances to the borrower based upon the equity or the value in the borrower's owner occupied principal residence; and

(D) requires no payment of principal or interest until the entire loan becomes due and payable.

Section 3. Form

The information contained in the commitment letter shall be written in clear, understandable language and easily read type.

Section 4. Content

All lenders shall issue a commitment letter in connection with every mortgage loan. The commitment letter shall be signed by the lender. A commitment letter may be signed electronically pursuant to the Vermont Uniform Electronic Transactions Act, 9 V.S.A. §§270 – 290, as amended from time to time.

The commitment letter shall include, but not be limited to, the information required by subdivision A, B, or C of this section, as applicable. The information shall be (i) grouped together in a meaningful way, and/or (ii) bolded or otherwise made easily distinguishable from the remainder of the text:

For a lender required to issue a Closing Discourse under Federal Regulation Z (12 C.F.R. Part 1026), as amended from time to time, the lender has the option of either: (i) issuing a commitment letter that complies with the requirements of subdivision A; or (ii) issuing a commitment letter that complies with the requirements of subdivision B. (A lender is not required to comply with both subdivision A and subdivision B.)

A. General Commitment Letter Requirements.

Except for commitment letters issued in accordance with subdivision B or C of this section, the commitment letter shall include the following information:

1. Name of borrower
2. Date of issuance of the commitment letter
3. Property address and/or any other real property being taken by the lender as security for the mortgage loan (for a loan that includes a mobile home, include a description of the mobile home)
4. Loan type (fixed or adjustable interest rate)
5. Commitment expiration date
6. Principal loan amount or maximum credit limit, as applicable
7. Loan term
8. (a) If the lender is required to use a HUD-1 or HUD-1A Settlement Statement under Federal Regulation X (12 CFR Part 1024), all amounts required to be disclosed on lines 801 and 802 of the HUD-1 or HUD-1A Settlement Statement, as amended from time to time
- (b) If the lender is not required to use a HUD-1 or HUD-1A Settlement Statement, disclose: (i) all amounts for originating services, including administrative and processing services performed by or on behalf of the lender; (ii) any credit or charge for the specific interest rate chosen; and (iii) any annual maintenance fee
9. Loan disbursement and repayment periods
10. Amount of monthly payment, including but not limited to the following:
 - a. Principal and interest amount (if known)
 - b. Escrow
 - i. State whether or not escrow will be required for the loan
 - ii. If escrow is required, list all components of the escrow, including the amounts of such items, if known
 - c. All other components of the monthly payment including the amounts of such items, if known

11. Rate program (locked or floating)

a. If the interest rate is not locked as of the date of issuance of the commitment letter, the lender shall notify the borrower as to the maximum interest rate for which he or she qualifies or if no maximum rate is stated, then the lender shall state the conditions upon which the lender may terminate the commitment.

b. Rate lock expiration date (if applicable and if different than the commitment expiration date)

12. Interest rate

a. The rate (if known); and

b. If the rate is adjustable, the lender shall state the index, the margin, and the frequency at which such rate may be adjusted.

13. Prepayment terms

14. Name and phone number of the licensed or registered mortgage loan originator whom the borrower may contact with questions

15. The NMLS identification number for both the lender and the mortgage loan originator

16. If a condition to the loan commitment is that the closing occur more than 24 hours prior to the commitment expiration date, the commitment letter shall include a closing deadline

B. Optional Short Form Commitment Letter When a Closing Disclosure is Required by Federal Regulation Z.

Instead of issuing the commitment letter required by subdivision A, a lender that is required to issue a Closing Disclosure under Federal Regulation Z, at its option, may issue a short form commitment letter that includes the following information:

1. Name of the borrower

2. Date of issuance of the commitment letter

3. Commitment expiration date

4. Rate lock expiration date (if applicable and if different than the commitment expiration date)

5. If a condition to the loan commitment is that the closing occur more than 24 hours prior to the commitment expiration date, the commitment letter shall include a closing deadline

6. A statement that the Closing Disclosure issued with the commitment letter contains the interest rate and additional terms of the mortgage loan, and the commitment letter is delivered concurrently with the Closing Disclosure

C. Reverse Mortgage Loans.

For a reverse mortgage loan, the commitment letter shall include the following information:

1. Name of borrower
2. Date of issuance of the commitment letter
3. Property address and/or any other real property being taken by the lender as security for the reverse mortgage loan (for a loan that includes a mobile home, include a description of the mobile home)
4. Loan type (fixed or adjustable interest rate)
5. Commitment expiration date
6. Principal limit the borrower may draw under the reverse mortgage loan
7. Initial disbursement limit
8. Disbursement program (lump-sum, monthly draw, or other options)
9. A description of when the reverse mortgage loan must be repaid
10. All charges and discounts
11. All amounts required to be disclosed on lines 801 and 802 of the HUD-1 or HUD-1A Settlement Statement, as amended from time to time
12. Rate program (locked or floating)
 - a. If the interest rate is not locked as of the date of issuance of the commitment letter, the lender shall notify the borrower as to the maximum interest rate for which he or she qualifies or if no maximum rate is stated, then the lender shall state the conditions upon which the lender may terminate the commitment
 - b. Rate lock expiration date (if applicable and if different than the commitment expiration date)

13. Interest rate

- a. The rate (if known); and
- b. If the rate is adjustable, the lender shall state the index, the margin, and the frequency at which such rate may be adjusted

14. Escrow

- a. State whether or not escrow will be required for the loan
- b. If escrow is required, list all components of the escrow, including the amounts of such items, if known
- c. State whether the escrow account will be funded from draws on the reverse mortgage loan or the borrower will be required to make escrow payments
- d. If there is no escrow, a statement that the borrower is responsible for property tax payments and homeowner's insurance

13. Prepayment terms

14. Name and phone number of the licensed or registered mortgage loan originator whom the borrower may contact with questions

15. The NMLS identification number for both the lender and the mortgage loan originator

16. If a condition to the loan commitment is that the closing occur more than 24 hours prior to the commitment expiration date, the commitment letter shall include a closing deadline

Section 5. Timing of Issuance

All commitment letters, except as provided in subsections 5(A), 5(B), and 5(C) of this regulation, shall be delivered to the borrower no less than three business days prior to the closing, provided, however:

A. A lender may deliver a commitment letter less than three business days prior to the closing, only when it has sufficient cause to do so and failure to close the mortgage loan within less than three business days after the delivery of the letter, shall create a hardship for the borrower. This exception shall apply only to the timing of the delivery of the commitment letter, and shall in no way exempt any lender from all other requirements of this regulation;

B. For every transaction in which a commitment letter is delivered less than three business days before the closing, the lender shall document and keep on file for

examination purposes, a written explanation stating the circumstances and reasons for the application of subsection 5A to the transaction; and

C. A borrower may waive or modify the three business day period only after the lender has delivered the commitment letter. The borrower must have a bona fide personal financial emergency that necessitates closing the mortgage loan before the end of the three business day period. The facts surrounding the individual situation will determine whether a bona fide personal financial emergency exists; for example, the imminent sale of the borrower's home in foreclosure where the foreclosure sale will proceed unless the mortgage loan proceeds are made available to the borrower during the three business day period. To modify or waive the waiting period, the borrower must give the lender a dated written statement that describes the emergency, specifically waives or modifies the three business day period, and bears the signature of all borrowers who are primarily liable on the mortgage loan. Printed forms for this purpose are prohibited. The lender shall keep the borrower's statement on file for examination purposes.

For the purpose of this section:

"Deliver" (including any form of the word) means the time at which the borrower has received the commitment letter. A commitment letter may be delivered electronically pursuant to the Vermont Uniform Electronic Transactions Act, 9 V.S.A. §§270 – 290, as amended from time to time, including the requirement that the borrower has consented to the electronic delivery of the commitment letter and has not withdrawn such consent.

"Business day" means all calendar days except Sundays and legal public holidays referenced in 12 C.F.R. §1026.2(a)(6), as amended from time to time.

If the commitment letter is not provided to the borrower in person, the borrower is considered to have received the commitment letter three business days after it is placed in the mail. Likewise, the borrower is considered to have received the commitment letter three business days after the lender sends it by email. Alternatively, the lender may rely on evidence that the borrower received the commitment letter earlier, such as an acknowledgement from a courier that the borrower has received the commitment letter, or an acknowledgment by the borrower of receipt of the emailed commitment letter.

Section 6. Effective Date

This regulation is effective October 1, 2018. Lenders shall be in compliance with the provisions of this regulation commencing 90 days from the effective date hereof. (During the 90-day transition period, a lender may comply with either this regulation or prior Regulation B-98-1.) The commissioner may waive compliance with this regulation for a lender for additional 30 days, not to exceed 120 days from adoption, for good cause shown.

Section 7. Severability

If any provision of this regulation, or the application of it to any person or circumstance, is determined to be invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this regulation which can be given effect without the invalid provision or application, and to that end the provisions of this regulation are severable.