



United States Department of Agriculture  
Rural Development  
Virginia State Office

VIRGINIA AN No. 471 (1927-B)

February 27, 2007

**SUBJECT:** Assumption of Note and Deed of Trust

**TO:** Rural Development Managers  
Area Directors

**PURPOSE/INTENDED OUTCOME:**

The purpose of this Administrative Notice is to provide clarification and guidance on releasing deeds of trust and recording deeds of trust in assumption cases.

**COMPARISON WITH PREVIOUS AN:**

This AN replaces VA AN No. 445 dated February 3, 2005 which expired on February 28, 2006.

**IMPLEMENTATION RESPONSIBILITIES:**

In the past we always had to retain the previous deed(s) of trust on record when we closed an assumption. Since we started requiring title insurance some of the title companies will not close the loan unless the previous deed(s) of trust are released. The Title Company or whoever is conducting the title search will usually total the note amounts on the deed(s) of trust. The total of all loans and assumptions show an inaccurate outstanding debt.

In cases where an existing loan is being assumed on new rates and terms and a subsequent loan **is** being advanced the old deed(s) of trust can be released as long as your title insurance binder shows that Rural Development will have a valid first lien (or whichever lien position we are taking) on the property. A new deed of trust describing the assumption agreement and the new note will be recorded.

In cases where an existing loan is being assumed on new rates and terms and a subsequent loan **is not** being advanced, recording a new deed of trust will be determined by the subsidy recapture terms of the original note and deed of trust. If the original note does not provide for the repayment of the subsidy recapture and the original deed of trust does not provide a lien to

**EXPIRATION DATE:** February 28, 2008

**FILING INSTRUCTIONS:**  
Preceding RD Instruction 1927-B

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secure the repayment of the recapture, a new deed of trust will be recorded. Whenever you do not record a new deed of trust, a deed of assumption is required. If you do not record a new deed of trust, never release the old deed of trust.

In cases where an existing loan is being assumed on same rates and terms a new deed of trust will not be recorded. If a same rates and terms assumption with a surviving transferor is approved, a deed of assumption which references the assumption agreement is required.

A deed of assumption combines the language of a warranty deed with language whereby the grantee/new borrower agrees and acknowledges the obligation being assumed. The borrower signs the deed of assumption, which is different from a warranty deed. By recording the deed of assumption, there is no doubt in the public record as to what was the intent of the parties. A deed of assumption rather than a warranty deed should always be required when there is a surviving transferor.

In any case where a new borrower is assuming the loan of an existing borrower, the new borrower should be given a copy of the note(s) and deed(s) of trust being assumed.

Please direct any questions pertaining to this AN to Phyllis Leonard in the Single Family Housing Division.

/s/ Ellen Matthews Davis 2/28/07  
ELLEN MATTHEWS DAVIS  
State Director