

# Document Release Procedures

# Chapter 4

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# Document Release Procedures

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## Introduction

As Document Custodian, you are responsible for safeguarding Freddie Mac's Notes. Seller/Servicers may need to obtain physical or constructive possession of a Note or other documents in the physical custody of a Document Custodian to take appropriate action in conjunction with the payoff, foreclosure, repurchase, substitution, conversion, modification or assumption of a Mortgage.

When you receive a [Form 1036](#), Request for Physical or Constructive Possession of Documents, or its equivalent, from the Servicer, you are responsible for releasing the requested documents to the Servicer or indicating in your note tracking system, or otherwise, that the Servicer has constructive possession of the Note. The Servicer will hold in trust, for Freddie Mac's benefit, all Notes and assignments that you release to the Servicer, which are not "paid and canceled."

You must track the release and, if applicable, return of these documents in accordance with the requirements in the Guide and this Handbook.

## Form 1036 Requirements

The Document Custodian must verify that the [Form 1036](#), or its equivalent, contains the following data:

- Name and address of Document Custodian
- Document Custodial Agreement number (Form 1035)
- Document Custodian Number
- Mortgage information, including:
  - Freddie Mac loan number
  - Primary Borrower's last name
  - Original Note date
  - Seller/Servicer loan number
  - Property address
- Type of document requested (e.g., modifying instrument)
- Type of possession requested (physical release or constructive possession)
- Reason for request
- Authorized signature of Servicer, including name, title, and date signed
- Phone number of individual at the Seller/Servicer making the request
- Email address of individual at the Seller/Servicer making the request

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If the form is incomplete or inconsistent with your records, you must contact the Servicer to resolve the issue.

If the Document Custodian verifies that the [Form 1036](#), or its equivalent, is complete, the Document Custodian must sign and date the Form 1036, or its equivalent, indicating the name and title of the signer, and, if the request was for physical release of document, return the form to the Servicer along with the requested documents. You must also update your Note tracking system to indicate, at a minimum, the date the document was released and the reason it was released.



If a requested Note is missing or badly damaged, see Chapter 3 of this Handbook on Lost Note Affidavits.

If the Seller/Servicer indicates that it requires constructive possession of a Note, then the Document Custodian must so indicate on its note tracking system or otherwise and retain physical custody of the Note in trust for the benefit of the Seller/Servicer until the Seller/Servicer delivers either Form 1036, or its equivalent, requesting that either (i) the Document Custodian release and deliver the Note to the Seller/Servicer or (ii) the Seller/Servicer no longer has need for constructive possession of the Note, in which case the Document Custodian shall restore its note tracking system or other records to indicate that it holds the Note, in trust, for the sole benefit of Freddie Mac.

An **Electronic or system-generated** Form 1036, or its equivalent, must contain all of the data elements that appear on the paper form, including an Electronic Signature. A single Electronic form can be used to request multiple Notes, provided that the release type for each Note is indicated on the form, and a Note list is attached. You must record the reason the documents were returned and file the Form 1036, or its equivalent, with the returned documents.

If an Electronic Form 1036, or its equivalent, is used, the Document Custodian must retain it and the list of individuals who have been designated by the Servicer to request the release of the documents electronically. **See [Guide Section 8107.2\(c\)](#) for details on these alternative versions of the Form 1036 and the required agreement between the Document Custodian and the Servicer.**

## Document Release Types

Upon receipt of a properly completed and executed [Form 1036](#), or its equivalent, you must release the requested documents to the Servicer and retain the original or an imaged copy of the form pursuant to the requirements of [Guide Sections 2202.4, 6304.3](#) and [8107.2](#).

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Below are examples of release types:

- Maturity
- Foreclosure
- Recordation of assignment
- Substitution
- Assumption
- Prepayment
- Repurchase
- Other, must include an explanation (may not indicate 'correction' or similar)
- Modification
- Conversion
- New York CEMA

**If 'Other' is checked as the Reason for Request, the explanation should indicate redemption, deed-in-lieu or short sale. Contact Freddie Mac with any questions.**

You must promptly update your Note tracking system to reflect (1) the reason for release of all documents except for those released due to maturity, prepayment, or repurchase, and (2) the date on which documents are returned.

### **New York Consolidation, Extension and Modification Agreement ("NY CEMA") Mortgage Note Release Procedures**

Servicers may occasionally request release of an original Note and assignments to facilitate refinancing. To consolidate, extend and modify a Mortgage secured by Mortgaged Premises in New York State and owned by Freddie Mac, a Borrower must notify the Servicer of their intention to refinance using a NY CEMA. The Servicer must request release in order to prepare the documents needed to facilitate the NY CEMA process.

We strongly recommend that you make a complete copy of the Notes and assignments that you release in anticipation of a refinancing using NY CEMAs, and we require both you and the Servicer to track all such released documents. The Servicer must notify the Document Custodian when the Note is paid in full or return the released documents if the refinance is cancelled or closing does not occur within 60 days. We suggest that you prompt the Servicer if it has not received either the released Notes and assignments or notice of the payment in full within 45 days after the document release. If the Servicer does not respond within 60 days after the document release, you must contact Freddie Mac, and

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provide the Freddie Mac loan number of the Note that was released, so that we may follow-up with the Servicer and take any necessary action.

## Paid in Full Notes

Paid-in-full Notes (e.g., reached maturity, prepaid) must be returned to the Servicer promptly upon receipt of Form 1036, or its equivalent, in order to comply with [Guide Section 8103.6](#), which requires that statutory timeframes be met. In many states, the Servicer must satisfy the lien in the land records within 30 days and may need the original Note to complete their lien release process.

## Return of Released Documents

If a Note was released and subsequently returned to your custody, you must receive a copy of the [Form 1036](#), or its equivalent, if it was in hardcopy, from the Servicer, together with the Note and related documents. You must review the documents to ensure that you have received all of the documents that you released; you may find it helpful to have a complete photocopied set to use for verification. You must then update your note tracking system to reflect return of the documents.

If the Seller/Servicer had constructive possession of a Note, you must receive a copy of the [Form 1036](#), or its equivalent, with a request for termination of constructive possession. You must then update your note tracking system or other records to reflect the termination of constructive possession.

**Under no circumstances should the Document Custodian accept a 'substitute,' corrected, or replacement Note in place of the original that was released.** If any data element has been altered or if supplemental documentation that was released with the Note (such as a POA, modification or Allonge) is not returned, you must contact Freddie Mac for assistance in resolving the issue at [loan\\_delivery\\_funding\\_ops@freddiemac.com](mailto:loan_delivery_funding_ops@freddiemac.com).

**If you receive a lost note affidavit (LNA) rather than the original Note, you must verify that you released an LNA and not the original Note to the Servicer; if you released the original Note, do not accept the returned Note File and contact Freddie Mac immediately.**

## Retention Period

You must retain the original or imaged copy of the [Form 1036](#), or its equivalent, for our inspection for at least three months in either a central location or the related Note file after the Mortgage is paid off, the Note is returned to you, or constructive possession is terminated. As with all documents that contain Borrower information, you must maintain and dispose of Form 1036, or its equivalent, in a manner that ensures Borrower confidentiality and privacy. See [Guide Section 8107.2\(c\)](#).