Lenders must obtain written authorization from the Agency prior to submitting evidence of self-certification in lieu of full documentation. Authorization for self-certification may be granted by the Agency if:

(i) The lender has an active lender agreement.

(ii) The lender is actively engaged in originating SFHGLP loans and has closed a minimum of 10 loans in the past 12 months.

(iii) The lender has successfully submitted 10 consecutive loan closing to the Agency that were in compliance with loan closing requirements and procedures.

(iv) The lender agrees to retain evidence of confirmed closing conditions in accordance with the issued conditional commitment in the lender’s permanent loan file.

(j) Issuance of the guarantee. The loan guarantee does not take effect until:

(1) The lender transmits the required up-front guarantee fee, the lender certification form provided by Rural Development, and loan closing documents to Rural Development;

(2) The lender meets all other conditions set out in the conditional commitment;

(3) The loan is current at the time the lender requests the loan guarantee;

(4) Any construction or rehabilitation, is complete except for development described in §§3555.101(c) and 3555.202(c); and

(5) Rural Development issues the loan guarantee document.

§ 3555.108 Full faith and credit.

(a) General. The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender has actual knowledge at the time it becomes such lender or which the lender participates in or condones. Misrepresentation includes negligent misrepresentation.

(b) Interest. A note that provides for the payment of interest on interest, however, shall not be guaranteed. If the note to which the Loan Note Guarantee is attached or relates provides for the payment of interest on interest, then the Loan Note Guarantee is void.

Notwithstanding the prohibition of interest on interest, interest may be capitalized in connection with re-amortization under subpart G of this part.

(c) Violations. The Loan Note Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, civil rights laws, negligent servicing, failure to obtain the required security or use of loan funds for unauthorized purposes, regardless of the time at which Rural Development acquires knowledge of the foregoing. Negligent servicing is defined as servicing that is inconsistent with this subpart and includes the failure to perform those services which a reasonably prudent Lender would perform in servicing its own loan portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act, but also not acting in a timely manner or acting contrary to the manner in which a reasonably prudent Lender would act up to the time of loan maturity or until a final loss is paid.

(d) Indemnification. If the Agency determines that a lender did not originate a loan in accordance with the requirements in this part and the Agency pays a claim under the loan guarantee, the Agency may revoke the lender’s eligibility status in accordance with subpart B of this part and may also require the lender:

(1) To indemnify the Agency for the loss, if the payment under the guarantee was made within 24 months of loan closing; or:

(2) To indemnify the Agency for the loss regardless of how long ago the loan closed, if the Agency determines that fraud or misrepresentation was involved in connection with the origination of the loan.