

**Why Understanding the Penalty Period Remains Important with Regard to  
Advanced Planning Under the Deficit Reduction Act of 2005**

By

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**Example:** Jane is a single 75 year old and owns her home worth \$330,000, with a town assessed value of \$305,500 and miscellaneous investments and cash of \$200,000.

**Planning Opportunities:** Transfer the home today to child with a reserved life estate in the deed. (You may also consider an income only irrevocable trust as the look-back period is now 5 years for all types of transfers).

**Calculation of Period of Ineligibility:**

(A) Use Assessed value of home see 130 CMR 520.007(G)(3(a))

(B) Calculate the value of the remaining interest in the home as this the only portion that qualifies as a disqualifying transfer. The remainder interest is determined in accordance with life estate tables used by the Division of medical assistance. [130 CMR 520.019(I)(1)] There is some confusion regarding the tables used which are either the old HCFA tables or the recently adopted IRS table 90CM.

(C) Assessed Value	\$305,500
Remainder Percentage Table 90CM	x 39.50%
Value of Remainder Interest	\$120,672
Average Monthly Cost Nursing Home MA	/ 7,380
Period of Ineligibility	= 16.35Months

**Planning Notes:**

Although the period of ineligibility is averaging 16.35 per month the penalty will not begin to run under the new rules until Jane enters the nursing home. The benefit of the advanced planning was to freeze the age of the individual and the value of the real estate which keeps the penalty period as short as possible. For example, if Jane gets sick on month 20 instead of Jane private paying for 40 more months to reach the 60 months look back period, she needs only pay

for 16.35 months. The cost to Jane would be 7,500/month x 16.35 months or \$122,625 of which she has in investments. The result of this plan would save a \$330,000 home and all of its related appreciation. In the event no life estate was retained the penalty period beginning on month 20 would have been 41.3 months [305,500 / \$7,380], which is longer than waiting the 40 month balance of the 60 month look back period.

### **Reverse Mortgage Planning Note:**

Under the old reverse mortgage rules, an individual would have had to decide between doing this type of Medicaid planning in hopes of getting the 5 year look back clock started or doing nothing because they just were not sure if they might need a reverse mortgage in the future. The real impact of this choice was that by forcing an individual to wait and see if a reverse mortgage was going to be needed prior to planning meant that it would ultimately be much harder for to beat the 5 year look back clock associated with any such planning they may wish to do in the future. Now that reverse mortgages can be obtained if an individual has a life estate in their home, there is no reason for an elderly person to have to wait to get their Medicaid planning in order thus starting the 5 year look back clock sooner rather than later.

### **Does Filing the Medicaid Application Start the Period of Ineligibility**

**General Rule:** The period of ineligibility for a disqualifying transfer will begin to run based on an approved application for such care but for the application of the penalty period...”[Section 6011(b) Deficit reduction Act 2005]. According to MassHealth Regulation 130 CMR 520.019(G)(3) this period of ineligibility begins to run on the date which the individual is **otherwise eligible** for MassHealth benefits...

**Query:** If Jane applies for Medicaid and is denied as she has 200,000 and is over assets, even though she has also made a prior disqualifying transfer, would that application still begin the running of the period of ineligibility?

**Solution/Planning Pointer:** Prior to applying Jane must make any additional disqualifying transfers needed to ensure she has less than \$2,000 so any denial could only be due to the application of the penalty period as a result of the prior transfer and not be due to being over assets. However, be sure to make a subsequent cure of the extra transfer, right after applying.

### **Curing a Transfer:**

**After Issuance of the Notice of the Period of Ineligibility:** After the issuance of the notice of the period of ineligibility, the nursing-facility resident may avoid imposition of the period of ineligibility in the following instances. [130 CMR 520.019(K2)]

**Curing a Transfer:** If the full value or a portion of the full value of the transferred resources is returned to the nursing-facility resident, the Division will rescind or adjust the period of ineligibility and will apply the countable-assets rule at 130 CMR 520.007 and the countable-income rules at 130 CMR 520.007 to the returned resources in the determination of eligibility.

The Division will rescind or adjust the period of ineligibility as follows [130CMR 520.019K(2)(b)]

- (i) The MassHealth agency will use the original application date if the nursing-facility resident provides proof within 60 days after the date of the notice of the period of ineligibility that the transfer has been fully or partially cured. In the case of a partial cure, the MassHealth agency will recalculate the period of ineligibility based on the transferred amount remaining after deducting the cured portion, beginning with the date of transfer or, for cures of transfers occurring on or after February 8, 2006, the later of the date of transfer or the date on which the individual would have otherwise been eligible.
- (ii) If the nursing-facility resident provides proof later than the 60th day after the date of the notice of a period of ineligibility that the transfer had been fully or partially cured, the nursing-facility resident must re-apply. The MassHealth agency will recalculate the period of ineligibility based on the amount of the transfer remaining after the cure, beginning with the date of transfer or, for cures of transfers occurring on or after February 8, 2006, the later of the date of transfer or the date on which the individual would have otherwise been eligible.

**Planning Note:** The ability to cure a transfer does not appear to have been changed by the Deficit Reduction Act 2005. Therefore, the immediate cure of the excess transfer will enable the division to recalculate the period of ineligibility based on the amount of the transfer remaining after the cure, beginning with the date of transfer. In Jane's case that would preserve the date of the transfer being month 20 and ensuring eligibility in 23.7 months from that date.

**When is the Transfer Date for purposes of beginning the period of ineligibility with regard to reverse half a loaf planning and does the application date really matter?**

**Example and planning pointer:**

Say an individual just entered a nursing home and a disqualifying transfer was made on July 1 which resulted in such individual having less than \$2,000 of assets and then on August 1 the MassHealth application was filed. Based on regulation 130 CMR 520.019(G)(3) the transfer date for purposes of the penalty period calculation should be July 1 as this is the day that the individual would have been approved for by MassHealth since that is they day he had less than \$2,000. In addition, MassHealth is permitted to go back three months from the date of application or to the earliest date of financial eligibility, which ever occurs first, when determining eligibility. This is important with regard to the reverse half a loaf planning as many times the application is not filed on the day the individual enters the nursing home and/or makes the disqualifying transfer.

**Planning note:** The date of transfer for penalty period calculation purposes can never be prior to the date the individual is institutionalized.

**Disqualification for assistance for individuals with substantial home equity 130  
CMR 520.007(G)(3)**

**Planning note:** The Federal Deficit Reduction Act of 2005 provided this same restriction, but also enabled the states to utilize a \$750,000 value instead of the recommended \$500,000 value. (Deficit Reduction Act 2005 section 6014B). It is important to note that Massachusetts has opted for the larger \$750,000 value, but has otherwise followed the Federal rule when adopting this regulation.

**Query:** Is the fair market value of the home or the real estate tax assessed value of the home supposed to be used when determining the \$750,000 equity interest for disqualification purposes?

**Answer:** Since this new equity value language has been adopted by Massachusetts into its existing regulation 130 CMR 520.007(G)(3), it appears clear that when determining the equity value in a home, we must use the most recent tax bill or property tax assessment that was most recently issued by the taxing jurisdiction – see 130 CMR 520.007(G)(3)(a).

**Understanding Annuities under the Deficit Reduction Act 2005**  
**General rule which still applies:**  
**[130 CMR 520.007(J)(1)]**

**Annuities:** Payments from an annuity are countable in accordance with 130 CMR 520.009. If the annuity can be converted to a lump sum, less any penalties or cost of converting to a lump sum, is a countable assets. Purchase of an annuity is a disqualifying transfer of assets for nursing-facility residents as defined at 130 CMR 515.001 in the following situation:

- (a) when the beneficiary is other than the applicant, member, or spouse.
  
- (b) when the beneficiary is the applicant, member, or spouse and when the total present value of projected payments from the annuity is less than the transferred asset (purchased price). In this case, the Division determines the amount of the disqualifying transfer based on the actual value of the annuity compared to the beneficiary's life expectancy using the life-expectancy tables of institutions in the business of providing annuities;

**New Notification requirements for Annuities:**

A state shall require, as a condition to receive medical assistance for an individual, that the application of the individual for such assistance shall disclose a description of any interest the **individual or community spouse** has in an annuity. In addition, such application must include a statement that the state becomes a remainder beneficiary under such annuity [Act Section 6012(a)].

**Practice Pointer:** Since this section specifically refers to an individual or community Spouse's interest in an annuity, one can only assume that the purchase of an annuity by the community spouse, must also list the state as a remainder beneficiary.

**Requirement for State to be named as remainder beneficiary:**The purchase of an annuity shall be treated as a disqualifying transfer of assets unless the state is named as the remainder beneficiary in the first position or the state is named as such beneficiary in the second position after the **community spouse** or minor or disabled child. [Act Section 6012 (b)(f)(i) and (ii)]

**Practice Pointer:** Some may think since this section indicates that only the community spouse can be listed as a beneficiary ahead of the state and does not mention the institutionalized spouse's ability to fill that position, that maybe the community spouse could buy an annuity and not list the state as beneficiary at all? However, due to the disclosure requirements listed above, the safe assumption is that the state must be listed as a beneficiary on an annuity purchased by the community spouse at least in the second position.

**How Annuities Can still be an effective planning  
tools under the Deficit Reduction Act of 2005**

**Example 1:** A single female age 75 has \$202,000 and has just entered a nursing home. The nursing home costs \$9,000 per month and she gets \$1,000 per month social security and a pension of \$612 per month. This means that her money would be used up in 27 months:

(a) Monthly Cost for Nursing Home	\$ 9,000
Less Social Security	\$ 1,000
Less Pension	<u>\$ 612</u>
Amount short each month	\$ 7,388
Total Cash Available	<u>/\$200,000</u>
Numbers of month's money will last	27.07 months

**Purchased an Annuity in Accordance with  
[130 CMR 520.007(J)(1)]**

(A) Amount of Annuity: is \$200,000 as the individual is permitted to keep \$2,000 = [202.00 - 2,000]

(B) Term of Annuity: A term certain not to exceed the individuals life expectancy pursuant to 130 CMR 520.007 (J)(1)(b)

(C) Irrevocable: the annuity must be irrevocable.

(D) Remainder Beneficiary: must be the state in the First position unless there is a community spouse or a blind or disabled child which would cause the state to be a remainder beneficiary in the second position. [Section 6012(b)(f)(i)(ii)]

**Result of Annuity Purchase**

- Amount of Annuity	200,000
- Life Expectancy of 75yr old Female using HCFA tables	/ 12 Years
- Number of Months in a year	<u>/ 12 Months</u>
- Amount of Monthly Payment At Risk to Nursing Home	\$ 1,388.88

**Amount of Medical Lien**

- Monthly Cost MassHealth Pays Nursing Home	\$ 6,000
- Less Social Security	\$ <1,000>
- Less Pension	\$ < 612>
- Less Annuity Payment	<u>\$ &lt;1,389&gt;</u>
- Amount short each month that represents the Amount of the MassHealth Lien Building	\$ 3,000

**Planning Benefit:** If the individual stays in the nursing home for 27 months the outstanding lien that the state would be entitle to would be \$81,000 [3,000/month x 27 months]. In addition the annuity paid out \$37,503 [1,389 x 27 months] The total amount spent out of the annuity was \$118,503 [81,000 + 37,503]. The total amount still left for the family would be \$81,497 which is far better then nothing which is the amount that would have been left had the family not purchased the annuity.

**Example No. 2:** A married couple both age 75, own a home worth \$300,000 and have investments of \$300,000. Husband has social security income and a pension of \$1,500 per month and the wife has social security income of \$750 per month. Husband has just entered a nursing home with no advanced planning in place.

**Planning Opportunities:**

**- Transfer the home to the community spouse:**

This transfer still qualifies as a permissible transfer and will not create a disqualification period pursuant to 130 CMR 520.019(D)(1). In addition, transfer assets in excess of community spousal resource allowance which also qualifies as a permissible transfer.

**-Purchase Annuity in the Name if the Community Spouse:**

A) Amount of Annuity is the total assets less the community spouse resource allowance [CSRA] and the amount the institutionalized spouse is allowed to keep.

- Total Assets	300,000
- Community Spousal Resource Allowance	< 99,540 >
- Amount institutionalized spouse can Keep	<u>&lt; 2,000 &gt;</u>
- Amount of Annuity	198,460

**B) Result of Annuity Purchase**

- Amount of Annuity	198,460
- Term of Annuity Not to Exceed Life expectancy of 75 year old	/ 5 Years
- Number of Months in a Year	/ 12 Months
- Amount of Monthly Payment to the Community Spouse	\$3,307.66

**Planning Pointer:**

Since it appears that the Deficit Reduction Act of 2005 requires the state to be named as a remainder beneficiary of an annuity, even though purchased by the community spouse, [Act Section 612a], it is important to make the term of the annuity as short as possible. Such an annuity would not result in a disqualifying transfer as it does not violate the annuity rules as provided in 130 CMR 520.007(J)(1). By making the annuity term as short as possible helps to reduce the risk of there being any remainder left to go to the state as the remainder beneficiary.

**Annuities for the married couple really work the same as they used prior to the implementation of the DRA of 2005:**

Under the pre DRA rules if a community spouse purchased and never received any MassHealth benefits prior to dying then the balance of the annuity would go to the children or who ever was listed as the primary beneficiary. Arguably, the same result would occur under the new regulations since the state would only get the balance of the annuity to the extent that the annuitant (i.e. community spouse) received any MassHealth benefits. 130 CMR 520.007(J)(2)(a)(i)

## Section 5

Table 90CM

Age x	$l_x$	Age x	$l_x$	Age x	$l_x$
0	100000	37	95969	74	62852
1	99064	38	95780	75	60449
2	98992	39	95581	76	57955
3	98944	40	95373	77	55373
4	98907	41	95156	78	52704
5	98877	42	94928	79	49943
6	98850	43	94687	80	47084
7	98826	44	94431	81	44129
8	98803	45	94154	82	41091
9	98783	46	93855	83	37994
10	98766	47	93528	84	34876
11	98750	48	93173	85	31770
12	98734	49	92787	86	28687
13	98713	50	92370	87	25638
14	98681	51	91918	88	22658
15	98635	52	91424	89	19783
16	98573	53	90885	90	17046
17	98497	54	90297	91	14466
18	98409	55	89658	92	12066
19	98314	56	88965	93	9884
20	98215	57	88214	94	7951
21	98113	58	87397	95	6282
22	98006	59	86506	96	4868
23	97896	60	85537	97	3694
24	97784	61	84490	98	2745
25	97671	62	83368	99	1999
26	97556	63	82169	100	1424
27	97441	64	80887	101	991
28	97322	65	79519	102	672
29	97199	66	78066	103	443
30	97070	67	76531	104	284
31	96934	68	74907	105	175
32	96791	69	73186	106	105
33	96642	70	71357	107	60
34	96485	71	69411	108	33
35	96322	72	67344	109	17
36	96150	73	65154	110	0



GENERAL AND CATEGORICAL  
ELIGIBILITY REQUIREMENTS

## LIFE EXPECTANCY TABLE - MALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	71.80	40	35.05	80	6.98
1	71.53	41	34.15	81	6.59
2	70.58	42	33.26	82	6.21
3	69.62	43	32.37	83	5.85
4	68.65	44	31.49	84	5.51
5	67.67	45	30.61	85	5.19
6	66.69	46	29.74	86	4.89
7	65.71	47	28.88	87	4.61
8	64.73	48	28.02	88	4.34
9	63.74	49	27.17	89	4.09
10	62.75	50	26.32	90	3.86
11	61.76	51	25.48	91	3.64
12	60.78	52	24.65	92	3.43
13	59.79	53	23.82	93	3.24
14	58.82	54	23.01	94	3.06
15	57.85	55	22.21	95	2.90
16	56.91	56	21.43	96	2.74
17	55.97	57	20.66	97	2.60
18	55.05	58	19.90	98	2.47
19	54.13	59	19.15	99	2.34
20	53.21	60	18.42	100	2.22
21	52.29	61	17.70	101	2.11
22	51.38	62	16.99	102	1.99
23	50.46	63	16.30	103	1.89
24	49.55	64	15.62	104	1.78
25	48.63	65	14.96	105	1.68
26	47.72	66	14.32	106	1.59
27	46.80	67	13.70	107	1.50
28	45.88	68	13.09	108	1.41
29	44.97	69	12.50	109	1.33
30	44.06	70	11.92	110	1.25
31	43.15	71	11.35	111	1.17
32	42.24	72	10.80	112	1.10
33	41.33	73	10.27	113	1.02
34	40.43	74	9.77	114	0.96
35	39.52	75	9.24	115	0.89
36	38.62	76	8.76	116	0.83
37	37.73	77	8.29	117	0.77
38	36.83	78	7.83	118	0.71
39	35.94	79	7.40	119	0.66

GENERAL AND CATEGORICAL  
ELIGIBILITY REQUIREMENTS

## LIFE EXPECTANCY TABLE - FEMALES

Age	Life Expectancy	Age	Life Expectancy	Age	Life Expectancy
0	78.79	40	40.61	80	9.11
1	78.42	41	39.66	81	8.58
2	77.48	42	38.72	82	8.06
3	76.51	43	37.78	83	7.56
4	75.54	44	36.85	84	7.08
5	74.56	45	35.92	85	6.63
6	73.57	46	35.00	86	6.20
7	72.59	47	34.08	87	5.79
8	71.60	48	33.17	88	5.41
9	70.61	49	32.27	89	5.05
10	69.62	50	31.37	90	4.71
11	68.63	51	30.48	91	4.40
12	67.64	52	29.60	92	4.11
13	66.65	53	28.72	93	3.84
14	65.67	54	27.86	94	3.59
15	64.68	55	27.00	95	3.36
16	63.71	56	26.15	96	3.16
17	62.74	57	25.31	97	2.97
18	61.77	58	24.48	98	2.80
19	60.80	59	23.67	99	2.64
20	59.83	60	22.86	100	2.48
21	58.86	61	22.06	101	2.34
22	57.89	62	21.27	102	2.20
23	56.92	63	20.49	103	2.06
24	55.95	64	19.72	104	1.93
25	54.98	65	18.96	105	1.81
26	54.02	66	18.21	106	1.69
27	53.05	67	17.48	107	1.58
28	52.08	68	16.76	108	1.48
29	51.12	69	16.04	109	1.38
30	50.15	70	15.35	110	1.28
31	49.19	71	14.66	111	1.19
32	48.23	72	13.99	112	1.10
33	47.27	73	13.33	113	1.02
34	46.31	74	12.68	114	0.96
35	45.35	75	12.05	115	0.89
36	44.40	76	11.43	116	0.83
37	43.45	77	10.83	117	0.77
38	42.50	78	10.24	118	0.71
39	41.55	79	9.67	119	0.66

Social Security Online  
Statistical Tables

# Actuarial Publications



## Period Life Table

Updated June 27, 2006

### Period Life Table, 2002

Exact age	Male			Female		
	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy
0	0.007644	100,000	74.21	0.006275	100,000	79.49
1	0.000528	99,236	73.78	0.000421	99,373	78.99
2	0.000357	99,183	72.82	0.000273	99,331	78.02
3	0.000268	99,148	71.85	0.000196	99,304	77.05
4	0.000232	99,121	70.87	0.000168	99,284	76.06
5	0.000202	99,098	69.88	0.000152	99,267	75.07
6	0.000186	99,078	68.90	0.000142	99,252	74.08
7	0.000171	99,060	67.91	0.000135	99,238	73.10
8	0.000151	99,043	66.92	0.000128	99,225	72.11
9	0.000127	99,028	65.93	0.000119	99,212	71.11
10	0.000110	99,015	64.94	0.000113	99,200	70.12
11	0.000119	99,004	63.95	0.000118	99,189	69.13
12	0.000177	98,993	62.96	0.000140	99,177	68.14
13	0.000297	98,975	61.97	0.000184	99,164	67.15
14	0.000460	98,946	60.98	0.000244	99,145	66.16
15	0.000640	98,900	60.01	0.000312	99,121	65.18
16	0.000810	98,837	59.05	0.000375	99,090	64.20
17	0.000964	98,757	58.10	0.000423	99,053	63.22
18	0.001090	98,662	57.15	0.000447	99,011	62.25
19	0.001189	98,554	56.22	0.000453	98,967	61.27
20	0.001290	98,437	55.28	0.000456	98,922	60.30
21	0.001386	98,310	54.35	0.000464	98,877	59.33
22	0.001443	98,174	53.43	0.000471	98,831	58.36
23	0.001450	98,032	52.50	0.000479	98,784	57.38
24	0.001421	97,890	51.58	0.000488	98,737	56.41
25	0.001379	97,751	50.65	0.000499	98,689	55.44
26	0.001345	97,616	49.72	0.000513	98,640	54.47
27	0.001325	97,485	48.79	0.000532	98,589	53.49
28	0.001330	97,356	47.85	0.000557	98,537	52.52
29	0.001355	97,226	46.91	0.000590	98,482	51.55
30	0.001389	97,094	45.98	0.000628	98,424	50.58
31	0.001428	96,959	45.04	0.000673	98,362	49.61

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Exact age	Male			Female		
	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy
32	0.001484	96,821	44.10	0.000727	98,296	48.65
33	0.001561	96,677	43.17	0.000793	98,224	47.68
34	0.001657	96,526	42.24	0.000869	98,146	46.72
35	0.001770	96,366	41.31	0.000953	98,061	45.76
36	0.001897	96,196	40.38	0.001045	97,968	44.80
37	0.002043	96,013	39.45	0.001147	97,865	43.85
38	0.002207	95,817	38.53	0.001259	97,753	42.90
39	0.002389	95,606	37.62	0.001381	97,630	41.95
40	0.002589	95,377	36.71	0.001514	97,495	41.01
41	0.002808	95,130	35.80	0.001655	97,347	40.07
42	0.003047	94,863	34.90	0.001800	97,186	39.14
43	0.003306	94,574	34.00	0.001946	97,011	38.21
44	0.003585	94,262	33.12	0.002097	96,823	37.28
45	0.003891	93,924	32.23	0.002264	96,620	36.36
46	0.004218	93,558	31.36	0.002446	96,401	35.44
47	0.004554	93,164	30.49	0.002631	96,165	34.52
48	0.004895	92,739	29.63	0.002816	95,912	33.61
49	0.005249	92,285	28.77	0.003010	95,642	32.71
50	0.005643	91,801	27.92	0.003227	95,354	31.80
51	0.006079	91,283	27.07	0.003476	95,046	30.90
52	0.006538	90,728	26.24	0.003763	94,716	30.01
53	0.007018	90,135	25.40	0.004091	94,360	29.12
54	0.007535	89,502	24.58	0.004465	93,974	28.24
55	0.008106	88,828	23.76	0.004884	93,554	27.36
56	0.008755	88,108	22.95	0.005349	93,097	26.50
57	0.009500	87,336	22.15	0.005861	92,599	25.64
58	0.010356	86,507	21.36	0.006423	92,056	24.78
59	0.011320	85,611	20.58	0.007040	91,465	23.94
60	0.012405	84,642	19.81	0.007732	90,821	23.11
61	0.013589	83,592	19.05	0.008497	90,119	22.28
62	0.014840	82,456	18.31	0.009318	89,353	21.47
63	0.016149	81,232	17.57	0.010192	88,521	20.67
64	0.017547	79,920	16.85	0.011138	87,618	19.88
65	0.019102	78,518	16.15	0.012199	86,642	19.09
66	0.020847	77,018	15.45	0.013384	85,586	18.32
67	0.022767	75,413	14.77	0.014669	84,440	17.56
68	0.024878	73,696	14.10	0.016055	83,201	16.82
69	0.027201	71,862	13.45	0.017571	81,866	16.08

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Exact age	Male			Female		
	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy
70	0.029824	69,908	12.81	0.019312	80,427	15.36
71	0.032719	67,823	12.19	0.021265	78,874	14.66
72	0.035795	65,604	11.59	0.023333	77,197	13.96
73	0.039031	63,255	11.00	0.025500	75,395	13.29
74	0.042518	60,786	10.42	0.027850	73,473	12.62
75	0.046499	58,202	9.86	0.030582	71,427	11.97
76	0.051003	55,495	9.32	0.033749	69,242	11.33
77	0.055873	52,665	8.79	0.037253	66,905	10.71
78	0.061104	49,722	8.29	0.041110	64,413	10.10
79	0.066844	46,684	7.79	0.045426	61,765	9.51
80	0.073269	43,564	7.31	0.050396	58,959	8.94
81	0.080572	40,372	6.85	0.056098	55,988	8.39
82	0.088858	37,119	6.41	0.062487	52,847	7.86
83	0.098235	33,821	5.99	0.069605	49,545	7.35
84	0.108694	30,498	5.58	0.077552	46,096	6.86
85	0.120186	27,183	5.20	0.086443	42,521	6.40
86	0.132672	23,916	4.85	0.096377	38,846	5.96
87	0.146137	20,743	4.51	0.107427	35,102	5.54
88	0.160593	17,712	4.20	0.119640	31,331	5.14
89	0.176074	14,867	3.90	0.133035	27,583	4.78
90	0.192615	12,250	3.63	0.147616	23,913	4.43
91	0.210240	9,890	3.38	0.163376	20,383	4.11
92	0.228968	7,811	3.15	0.180297	17,053	3.82
93	0.248798	6,022	2.93	0.198353	13,978	3.55
94	0.269717	4,524	2.74	0.217509	11,206	3.30
95	0.290557	3,304	2.56	0.236924	8,768	3.08
96	0.311026	2,344	2.41	0.256339	6,691	2.88
97	0.330817	1,615	2.27	0.275469	4,976	2.70
98	0.349613	1,081	2.15	0.294012	3,605	2.54
99	0.367093	703	2.04	0.311653	2,545	2.39
100	0.385448	445	1.93	0.330352	1,752	2.25
101	0.404720	273	1.82	0.350173	1,173	2.11
102	0.424956	163	1.72	0.371184	762	1.98
103	0.446204	94	1.63	0.393455	479	1.86
104	0.468514	52	1.53	0.417062	291	1.74
105	0.491940	28	1.44	0.442086	170	1.63
106	0.516537	14	1.36	0.468611	95	1.52
107	0.542364	7	1.28	0.496728	50	1.41

Exact age	Male			Female		
	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy	Death probability <sup>a</sup>	Number of lives <sup>b</sup>	Life expectancy
108	0.569482	3	1.20	0.526531	25	1.31
109	0.597956	1	1.12	0.558123	12	1.22
110	0.627854	1	1.05	0.591610	5	1.13
111	0.659246	0	0.98	0.627107	2	1.05
112	0.692209	0	0.92	0.664733	1	0.97
113	0.726819	0	0.85	0.704617	0	0.89
114	0.763160	0	0.79	0.746894	0	0.82
115	0.801318	0	0.73	0.791708	0	0.75
116	0.841384	0	0.68	0.839210	0	0.68
117	0.883453	0	0.63	0.883453	0	0.63
118	0.927625	0	0.57	0.927625	0	0.57
119	0.974007	0	0.53	0.974007	0	0.53

<sup>a</sup> Probability of dying within one year.

<sup>b</sup> Number of survivors out of 100,000 born alive.

Note: The period life expectancy at a given age for 2002 represents the average number of years of life remaining if a group of persons at that age were to experience the mortality rates for 2002 over the course of their remaining life.

**A. Settlement Statement**

U.S. Department of Housing  
and Urban Development

OMB Approval No. 2502-0265  
(expires 9/30/2006)

**B. Type of Loan**

1. <input checked="" type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input type="checkbox"/> Conv. Unins.	6. File Number GOLDENPOND	7. Loan Number:	8. Mortgage Insurance Case Number
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.				

**C. Note** This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown, terms marked "(P.O.C.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

<b>D. Name &amp; Address of Borrower:</b> NORMAN THAYER  1 GOLDEN POND Walpole, Massachusetts 02081	<b>E. Name &amp; Address of Seller:</b>	<b>F. Name &amp; Address of Lender:</b> FINANCIAL FREEDOM SENIOR FUNDING CORPORATION  500 NORTHRIDGE ROAD SUITE 500 ATLANTA, Georgia 30350
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<b>G. Property Location:</b> 1 GOLDEN POND Walpole, Massachusetts 02081	<b>H. Settlement Agent:</b> Cushing & Dolan, P.C. 520 Providence Highway Suite 10 Norwood, Massachusetts 02062  <b>Place of Settlement:</b> 520 Providence Highway Norwood, Massachusetts 02062	<b>Distribution Date</b> September 27, 2006  <b>I. Settlement Date</b> Friday September 22, 2006
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J. Summary of Borrower's Transaction		K. Summary of Seller's Transaction	
<b>100. Gross Amount Due From Borrower</b>		<b>400. Gross Amount Due To Seller</b>	
101. Contract sales price		401. Contract sales price	
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	17,386.21	403.	
104.		404.	
105.		405.	
<b>Adjustments for items paid by seller in advance</b>		<b>Adjustments for items paid by seller in advance</b>	
106. City/town taxes to		406. City/town taxes to	
107. County taxes to		407. County taxes to	
108. Assessments to		408. Assessments to	
109. PAYOFF WALPOLE COOPERATIVE	100,000.00	409.	
110. PAY NOV 1 TAX BILL	1,800.00	410.	
111.		411.	
112.		412.	
<b>120. Gross Amount Due From Borrower</b>	<b>119,186.21</b>	<b>420. Gross Amount Due To Seller</b>	
<b>200. Amounts Paid By Or In Behalf Of Borrower</b>		<b>500. Reductions in Amount Due To Seller</b>	
201. Deposit or earnest money		501. Excess deposit (see instructions)	
202. Principal amount of new loan(s)		502. Settlement charges to seller (line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.	17,386.21	504. Payoff of first mortgage loan	
<b>CLOSING COSTS</b>			
205.	75,000.00	505. Payoff of second mortgage loan	
<b>CASH PORTION OF INITIAL DRAW</b>			
206. WALPOLE COOPERATIVE BANK	100,000.00	506.	
207. TAXES	1,800.00	507.	
208.		508.	
209.		509.	
<b>Adjustments for items unpaid by seller</b>		<b>Adjustments for items unpaid by seller</b>	
210. City/town taxes to		510. City/town taxes to	
211. County taxes to		511. County taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
<b>220. Total Paid By/For Borrower</b>	<b>194,186.21</b>	<b>520. Total Reduction Amount Due Seller</b>	
<b>300. Cash At Settlement From/To Borrower</b>		<b>600. Cash At Settlement To/From Seller</b>	
301. Gross Amount due from borrower (line 120)	119,186.21	601. Gross Amount due to seller (line 420)	
302. Less amounts paid by/for borrower (line 220)	194,186.21	602. Less Reductions in amount due seller (line 520)	
303. Cash <input type="checkbox"/> From <input checked="" type="checkbox"/> To Borrower	75,000.00	603. Cash <input type="checkbox"/> To <input type="checkbox"/> From Seller	0.00

Section 5 of the Real Estate Settlement Procedures Act (RESPA) requires the following: HUD must develop a Special Information Booklet to help persons borrowing money to finance the purchase of residential real estate to better understand the nature and costs of real estate settlement services; Each lender must provide the booklet to all applicants from whom it receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate. Lenders must prepare and distribute with the Booklet a Good Faith Estimate of the settlement costs that the borrower is likely to incur in connection with the settlement. These disclosures are mandatory.

charges imposed upon the borrower and seller. These are third party disclosures that are designed to provide the borrower with pertinent information during the settlement process in order to be a better shopper.

The Public Reporting Burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information requested does not lend itself to confidentiality.

Section 4(a) of RESPA mandates that HUD develop and prescribe this standard form to be used at the time of loan settlement to provide full disclosure of all

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L. Settlement Charges		File Number	GOLDENPOND	OMB No. 2502-0265		
700. Total Sales/Broker's Commission based on price \$				0.00 @	%	
Division of Commission (line 700) as follows:						
701.	\$		to			
702.	\$		to			
703.	Commission paid at Settlement					
704.						
800. Items Payable In Connection With Loan						
801.	Loan Origination Fee	%	FINANCIAL FREEDOM			7,255.80
802.	Loan Discount	%				
803.	Appraisal Fee		to EFS			400.00
804.	Credit Report	FACTUAL DATA				21.36
805.	Flood Cert. Fee	FACTUAL DATA				15.00
806.	Underwriting Fee					
807.	Tax Service Fee					
808.						
809.						
810.						
811.						
812.						
813.						
814.						
815.						
816.						
817.						
900. Items Required By Lender To Be Paid In Advance						
901.	Interest from	9/27/2006	to	@ \$	/day	
902.	Mortgage Insurance Premium for	Months to	FHA			7,255.80
903.	Hazard Insurance Premium for	Years to				
904.		Years to				
905.						
1000. Reserves Deposited With Lender						
1001.	Hazard Insurance	Months@\$			per month	
1002.	Mortgage Insurance	Months@\$			per month	
1003.	City Property taxes	Months@\$			per month	
1004.	County Property taxes	Months@\$			per month	
1005.	Annual Assessments	Months@\$			per month	
1006.		Months@\$			per month	
1007.						
1008.						
1009.						
1100. Title Charges						
1101.	Settlement or closing fee		to			
1102.	Abstract or title search		to			
1103.	Title examination		to			
1104.	Title insurance binder		to			
1105.	Document Preparation		to FAND			125.00
1106.	Notary fees		to			
1107.	Attorneys fees		to CUSHING & DOLAN			650.00
	(includes above item numbers:		)			
1108.	Title insurance		to First American Title (Eagle)			998.25
	(includes above item numbers:		)			
1109.	Lender's coverage	\$	998.25	(	362,790.00 )	
1110.	Owner's coverage	\$		(	)	
1111.						
1112.						
1113.						
1200. Government Recording and Transfer Charges						
1201.	Recording fees: Deed:\$		Mortgage:\$ 350.00		Release:\$ 75.00	425.00
1202.	City/county tax/stamps: Deed:\$		Mortgage:\$			
1203.	State tax/stamps: Deed:\$		Mortgage:\$			
1204.	RECORD DEATH CERT AND TAX AFFIDAVIT TO REGISTRY					150.00
1205.	RECORD MLC TO REGISTRY					65.00
1300. Additional Settlement Charges						
1301.	Survey		to PLOT PLAN TO SULLIVAN SURVEY			
1302.	Pest inspection		to			
1303.	FEDEX DOCS TO C & D					
1304.	OBTAIN MLC TO C & D					25.00
1305.						
1306.						
1307.						
1308.						
1309.						
1310.						
1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)						17,386.21
						0.00

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

\_\_\_\_\_

NORMAN THAYER

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

Settlement Agent \_\_\_\_\_

GLEN F. SUTHERLAND

Page 2 of 2

WARNING: It is a crime to knowingly make false statements to the United States on this or any other form. Penalties upon conviction can include a fine and imprisonment. For details, see: Title 18 U.S. Code Sections 1001 and 1010.

Form HUD-1 (3/86)



SAMPLE

ADJUSTABLE RATE NOTE  
(HOME EQUITY CONVERSION)

FHA Case No.

SAMPLE

SEPTEMBER 22, 2006

1 GOLDEN POND, WALPOLE, MASSACHUSETTS 02081  
[Property Address]

1. DEFINITIONS

"Borrower" means each person signing at the end of this Note. "Lender" means FINANCIAL FREEDOM SENIOR FUNDING CORPORATION, A SUBSIDIARY OF INDYMAC BANK, F.S.B.

and its successors and assigns. "Secretary" means the Secretary of Housing and Urban Development or his or her authorized representatives.

2. BORROWER'S PROMISE TO PAY; INTEREST

In return for amounts to be advanced by Lender to or for the benefit of Borrower under the terms of a Home Equity Conversion Loan Agreement dated SEPTEMBER 18, 2006 ("Loan Agreement"), Borrower promises to pay to the order of Lender a principal amount equal to the sum of all Loan Advances made under the Loan Agreement with interest. All amounts advanced by Lender, plus interest, if not paid earlier, are due and payable on DECEMBER 08, 2081. Interest will be charged on unpaid principal at the rate of SIX AND 520/1000 percent ( 6.5200 %) per year until the full amount of principal has been paid. The interest rate may change in accordance with Paragraph 5 of this Note. Accrued interest shall be added to the principal balance as a Loan Advance at the end of each month.

3. PROMISE TO PAY SECURED

Borrower's promise to pay is secured by a mortgage, deed of trust or similar security instrument that is dated the same date as this Note and called the "Security Instrument." That Security Instrument protects the Lender from losses which might result if Borrower defaults under this Note.

4. MANNER OF PAYMENT

(A) Time

Borrower shall pay all outstanding principal and accrued interest to Lender upon receipt of a notice by Lender requiring immediate payment in full, as provided in Paragraph 7 of this Note.

(B) Place

Payment shall be made at FINANCIAL FREEDOM SENIOR FUNDING CORPORATION,  
500 NORTH RIDGE ROAD STE. 500,  
ATLANTA, GEORGIA 30350

, or any such other place as Lender may designate in writing by notice to Borrower.

(C) Limitation of Liability

Borrower shall have no personal liability for payment of the debt. Lender shall enforce the debt only through sale of the Property covered by the Security Instrument ("Property"). If this Note is assigned to the Secretary, the Borrower shall not be liable for any difference between the mortgage insurance benefits paid to Lender and the outstanding indebtedness, including accrued interest, owed by Borrower at the time of the assignment.

5. INTEREST RATE CHANGES

(A) Change Date

The interest rate may change on the first day of DECEMBER, 2006, and on  that day of each succeeding year  the first day of each succeeding month. "Change Date" means each date on which the interest rate could change.

(B) The Index

Beginning with the first Change Date, the interest rate will be based on an Index. "Index" means the weekly average yield on United States Treasury Securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board. "Current Index" means the most recent Index figure available 30 days before the Change Date. If the Index (as defined above) is no longer available, Lender will use as a new Index any index prescribed by the Secretary. Lender will give Borrower notice of the new Index.

(C) Calculation of Interest Rate Changes

Before each Change Date, Lender will calculate a new interest rate by adding a margin of ONE AND 500/1000 percentage points ( 1.50000 %) to the Current Index. Subject to the limits stated in Paragraph 5(D) of this Note, this amount will be the new interest rate until the next Change Date.

(D) Limits on Interest Rate Changes

The interest rate will never increase or decrease by more than two percentage points (2.0%) on any single Change Date. The interest rate will never be more than five percentage points (5.0%) higher or lower than the initial interest rate stated in Paragraph 2 of this Note.

The interest rate will never increase above SIXTEEN AND 520/1000 percent ( 16.52000 %).

(E) Notice of Changes

Lender will give notice to Borrower of any change in the interest rate. The notice must be given at least 25 days before the new interest rate takes effect, and must set forth (i) the date of the notice, (ii) the Change Date, (iii) the old interest rate, (iv) the new interest rate, (v) the Current Index and the date it was published, (vi) the method of calculating the adjusted interest rate, and (vii) any other information which may be required by law from time to time.

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**(F) Effective Date of Changes**

A new interest rate calculated in accordance with paragraphs 5(C) and 5(D) of this Note will become effective on the Change Date, unless the Change Date occurs less than 25 days after Lender has given the required notice. If the interest rate calculated in accordance with Paragraphs 5(C) and 5(D) of this Note decreased, but Lender failed to give timely notice of the decrease and applied a higher rate than the rate which should have been stated in a timely notice, then Lender shall recalculate the principal balance owed under this Note so it does not reflect any excessive interest.

**6. BORROWER'S RIGHT TO PREPAY**

A Borrower has the right to pay the debt evidenced by this Note, in whole or in part, without charge or penalty. Any amount of debt prepaid will first be applied to reduce the principal balance of the Second Note described in Paragraph 11 of this Note and then to reduce the principal balance of this Note.

All prepayments of the principal balance shall be applied by Lender as follows:

- First, to that portion of the principal balance representing aggregate payments for mortgage insurance premiums;
- Second, to that portion of the principal balance representing aggregate payments for servicing fees;
- Third, to that portion of the principal balance representing accrued interest due under the Note; and
- Fourth, to the remaining portion of the principal balance. A Borrower may specify whether a prepayment is to be credited to that portion of the principal balance representing monthly payments or the line of credit. If Borrower does not designate which portion of the principal balance is to be prepaid, Lender shall apply any partial prepayments to an existing line of credit or create a new line of credit.

**7. IMMEDIATE PAYMENT IN FULL**

**(A) Death or Sale**

Lender may require immediate payment in full of all outstanding principal and accrued interest if:

- (i) A Borrower dies and the Property is not the principal residence of at least one surviving Borrower, or
- (ii) All of a Borrower's title in the Property (or his or her beneficial interest in a trust owning all or part of the Property) is sold or otherwise transferred and no other Borrower retains title to the Property in fee simple or retains a leasehold under a lease for less than 99 years which is renewable or a lease having a remaining period of not less than 50 years beyond the date of the 100th birthday of the youngest Borrower or retains a life estate (or retaining a beneficial interest in a trust with such an interest in the Property).

**(B) Other Grounds**

Lender may require immediate payment in full of all outstanding principal and accrued interest, upon approval by an authorized representative of the Secretary, if:

- (i) The Property ceases to be the principal residence of a Borrower for reasons other than death and the Property is not the principal residence of at least one other Borrower;
- (ii) For a period of longer than 12 consecutive months, a Borrower fails to physically occupy the Property because of physical or mental illness and the Property is not the principal residence of at least one other Borrower; or
- (iii) An obligation of the Borrower under the Security Instrument is not performed.

**(C) Payment of Costs and Expenses**

If Lender has required immediate payment in full as described above, the debt enforced through sale of the Property may include costs and expenses, including reasonable and customary attorneys' fees, associated with enforcement of this Note to the extent not prohibited by applicable law. Such fees and costs shall bear interest from the date of disbursement at the same rate as the principal of this Note.

**(D) Trusts**

Conveyance of a Borrower's interest in the Property to a trust which meets the requirements of the Secretary, or conveyance of a trust's interests in the Property to a Borrower, shall not be considered a conveyance for purposes of this Paragraph. A trust shall not be considered an occupant or be considered as having a principal residence for purposes of this Paragraph.

**8. WAIVERS**

Borrower waives the rights of presentment and notice of dishonor. "Presentment" means the right to require Lender to demand payment of amounts due. "Notice of dishonor" means the right to require Lender to give notice to other persons that amounts due have not been paid.

**9. GIVING OF NOTICES**

Unless applicable law requires a different method, any notice that must be given to Borrower under this Note will be given by delivering it or by mailing it by first class mail to Borrower at the Property Address above or at a different address if Borrower has given Lender a notice of Borrower's different address.

Any notice that must be given to Lender under this Note will be given by first class mail to Lender at the address stated in Paragraph 4(B) or at a different address if Borrower is given a notice of that different address.

**10. OBLIGATIONS OF PERSONS UNDER THIS NOTE**

If more than one person signs this Note, each person is fully obligated to keep all of the promises made in this Note. Lender may enforce its rights under this Note only through sale of the Property.

**11. RELATIONSHIP TO SECOND NOTE**

**(A) Second Note**

Because Borrower will be required to repay amounts which the Secretary may make to or on behalf of Borrower pursuant to Section 255(i)(1)(A) of the National Housing Act and the Loan Agreement, the Secretary has required Borrower to grant a Second Note to the Secretary.

**(B) Relationship of Secretary Payments to this Note**

Payments made by the Secretary shall not be included in the debt due under this Note unless:

- (i) This Note is assigned to the Secretary; or
- (ii) The Secretary accepts reimbursements by the Lender for all payments made by the Secretary.

If the circumstances described in (i) or (ii) occur, then all payments by the Secretary, including interest on the payments, shall be included in the debt.

**(C) Effect on Borrower**

Where there is no assignment or reimbursement as described in (B)(i) or (ii), and the Secretary makes payments to Borrower, then Borrower shall not:

- (i) Be required to pay amounts owed under this Note until the Secretary has required payment in full of all outstanding principal and accrued interest under the Second Note held by the Secretary, notwithstanding anything to the contrary in Paragraph 7 of this Note; or
- (ii) Be obligated to pay interest or shared appreciation under this Note at any time, whether accrued before or after the payments by the Secretary, and whether or not accrued interest has been included in the principal balance of this Note, notwithstanding anything to the contrary in Paragraphs 2 or 5 of this Note or any Allonge to this Note.

**12. SHARED APPRECIATION**

If Borrower has executed a Shared Appreciation Allonge, the covenants of the Allonge shall be incorporated into and supplement the covenants of this Note as if the Allonge were a part of this Note.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Note.

\_\_\_\_\_  
NORMAN THAYER

(Seal)

-Borrower

Record and Return to:  
FINANCIAL FREEDOM SENIOR FUNDING CORPORATION,  
A SUBSIDIARY OF INDY MAC BANK, F.S.B.  
500 NORTH RIDGE ROAD STE. 500  
ATLANTA, GEORGIA 30350

Prepared by:

SAMPLE

SAMPLE

[Space Above This Line For Recording Data]

Commonwealth of Massachusetts

FHA Case No.

**ADJUSTABLE RATE  
HOME EQUITY CONVERSION MORTGAGE**

THIS MORTGAGE ("Security Instrument") is given on ~~SEPTEMBER 12~~ **SEPTEMBER 19**, 2006. The mortgagor is  
NORMAN THAYER

whose address is 1 GOLDEN POND  
WALPOLE, MASSACHUSETTS 02081  
This Security Instrument is given to

("Borrower").

**FINANCIAL FREEDOM SENIOR FUNDING CORPORATION, A SUBSIDIARY OF INDY  
MAC BANK, F.S.B.**

, which is organized and existing under the laws of THE STATE OF DELAWARE, and whose address is  
500 NORTH RIDGE ROAD STE. 500, ATLANTA, GEORGIA 30350

("Lender"). Borrower has agreed to repay to Lender amounts which Lender is obligated to advance, including future advances, under the terms of a Home Equity Conversion Loan Agreement dated the same date as this Security Instrument ("Loan Agreement"). The agreement to repay is evidenced by Borrower's Note dated the same date as this Security Instrument ("Note"). This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest at a rate subject to adjustment, and all renewals, extensions and modifications of the Note, up to a maximum principal amount of  
**FOUR HUNDRED NINETY FIVE THOUSAND AND 00/100** -----

(U.S. \$ **495,000.00**); (b) the payment of all other sums, with interest, advanced under Paragraph 5 to protect the security of this Security Instrument or otherwise due under the terms of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. The full debt, including amounts described in (a), (b), and (c) above, if not paid earlier, is due and payable on **DECEMBER 08**, 2081. For this purpose, Borrower does hereby mortgage, grant and convey to Lender, with power of sale, the following described property located in **NORFOLK** County, Massachusetts:

See Preliminary Report

which has the address of 1 GOLDEN POND

WALPOLE [City], MASSACHUSETTS [State] 02081 [Zip Code] ("Property Address");

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant and convey the Property and that the Property is unencumbered. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note.

2. **Payment of Property Charges.** Borrower shall pay all property charges consisting of taxes, ground rents, flood and hazard insurance premiums, and special assessments in a timely manner, and shall provide evidence of payment to Lender, unless Lender pays property charges by withholding funds from monthly payments due to the Borrower or by charging such payments to a line of credit as provided for in the Loan Agreement.

3. **Fire, Flood and Other Hazard Insurance.** Borrower shall insure all improvements on the Property, whether now in existence or subsequently erected, against any hazards, casualties, and contingencies, including fire. This insurance shall be maintained in the amounts, to the extent and for the periods required by Lender or the Secretary of Housing and Urban Development ("Secretary"). Borrower shall also insure all improvements on the Property, whether now in existence or subsequently erected, against loss by floods to the extent required by the Secretary. All insurance shall be carried with companies approved by Lender. The insurance policies and any renewals shall be held by Lender and shall include loss payable clauses in favor of, and in a form acceptable to, Lender.

In the event of loss, Borrower shall give Lender immediate notice by mail. Lender may make proof of loss if not made promptly by Borrower. Each insurance company concerned is hereby authorized and directed to make payment for such loss to Lender instead of to Borrower and to Lender jointly. Insurance proceeds shall be applied to restoration or repair of the damaged Property, if the restoration or repair is economically feasible and Lender's security is not lessened. If the restoration or repair is not economically feasible or Lender's security would be

lessened, the insurance proceeds shall be applied first to the reduction of any indebtedness under a Second Note and Second Security Instrument held by the Secretary on the Property and then to the reduction of the indebtedness under the Note and this Security Instrument. Any excess insurance proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

In the event of foreclosure of this Security Instrument or other transfer of title to the Property that extinguishes the indebtedness, all right, title and interest of Borrower in and to insurance policies in force shall pass to the purchaser.

**4. Occupancy, Preservation, Maintenance and Protection of the Property; Borrower's Loan Application; Leaseholds.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence after the execution of this Security Instrument, and Borrower (or at least one Borrower, if initially more than one person are Borrowers) shall continue to occupy the Property as Borrower's principal residence for the term of the Security Instrument. "Principal residence" shall have the same meaning as in the Loan Agreement.

Borrower shall not commit waste or destroy, damage or substantially change the Property or allow the Property to deteriorate, reasonable wear and tear excepted. Borrower shall also be in default if Borrower, during the loan application process, gave materially false or inaccurate information or statements to Lender (or failed to provide Lender with any material information) in connection with the loan evidenced by the Note, including, but not limited to, representations concerning Borrower's occupancy of the Property as a principal residence. If this Security Instrument is on a leasehold, Borrower shall comply with the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and fee title shall not be merged unless Lender agrees to the merger in writing.

**5. Charges to Borrower and Protection of Lender's Rights in the Property.** Borrower shall pay all governmental or municipal charges, fines and impositions that are not included in Paragraph 2. Borrower shall pay these obligations on time directly to the entity which is owed the payment. If failure to pay would adversely affect Lender's interest in the Property, upon Lender's request Borrower shall promptly furnish to Lender receipts evidencing these payments. Borrower shall promptly discharge any lien which has priority over this Security Instrument in the manner provided in Paragraph 12(c).

If Borrower fails to make these payments or the property charges required by Paragraph 2, or fails to perform any other covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, for condemnation or to enforce laws or regulations), then Lender may do and pay whatever is necessary to protect the value of the Property and Lender's rights in the Property, including payment of taxes, hazard insurance and other items mentioned in Paragraph 2.

To protect Lender's security in the Property, Lender shall advance and charge to Borrower all amounts due to the Secretary for the Mortgage Insurance Premium as defined in the Loan Agreement as well as all sums due to the loan servicer for servicing activities as defined in the Loan Agreement. Any amounts disbursed by Lender under this Paragraph shall become an additional debt of Borrower as provided for in the Loan Agreement and shall be secured by this Security Instrument.

**6. Inspection.** Lender or its agent may enter on, inspect or make appraisals of the Property in a reasonable manner and at reasonable times provided that Lender shall give the Borrower notice prior to any inspection or appraisal specifying a purpose for the inspection or appraisal which must be related to Lender's interest in the Property. If the property is vacant or abandoned or the loan is in default, Lender may take reasonable action to protect and preserve such vacant or abandoned Property without notice to the Borrower.

**7. Condemnation.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of any part of the Property, or for conveyance in place of condemnation shall be paid to Lender. The proceeds shall be applied first to the reduction of any indebtedness under a Second Note and Second Security Instrument held by the Secretary on the Property, and then to the reduction of the indebtedness under the Note and this Security Instrument. Any excess proceeds over an amount required to pay all outstanding indebtedness under the Note and this Security Instrument shall be paid to the entity legally entitled thereto.

8. Fees. Lender may collect fees and charges authorized by the Secretary.

9. Grounds for Acceleration of Debt.

(a) **Due and Payable.** Lender may require immediate payment in full of all sums secured by this Security Instrument if:

- (i) A Borrower dies and the Property is not the principal residence of at least one surviving Borrower; or
- (ii) All of a Borrower's title in the Property (or his or her beneficial interest in a trust owning all or part of the Property) is sold or otherwise transferred and no other Borrower retains title to the Property in fee simple or retains a leasehold under a lease for less than 99 years which is renewable or a lease having a remaining period of not less than 50 years beyond the date of the 100th birthday of the youngest Borrower or retains a life estate (or retaining a beneficial interest in a trust with such an interest in the Property).

(b) **Due and Payable with Secretary Approval.** Lender may require immediate payment in full of all sums secured by this Security Instrument, upon approval of the Secretary, if:

- (i) The Property ceases to be the principal residence of a Borrower for reasons other than death and the Property is not the principal residence of at least one other Borrower; or
- (ii) For a period of longer than twelve (12) consecutive months, a Borrower fails to occupy the Property because of physical or mental illness and the Property is not the principal residence of at least one other Borrower; or
- (iii) An obligation of the Borrower under this Security Instrument is not performed.

(c) **Notice to Lender.** Borrower shall notify Lender whenever any of the events listed in this Paragraph (a) (i) or (b) occur.

(d) **Notice to Secretary and Borrower.** Lender shall notify the Secretary and Borrower whenever the loan becomes due and payable under Paragraph 9 (a) (i) or (b). Lender shall not have the right to commence foreclosure until Borrower has had thirty (30) days after notice to either:

- (i) Correct the matter which resulted in the Security Instrument coming due and payable; or
- (ii) Pay the balance in full; or
- (iii) Sell the Property for the lesser of the balance or 95% of the appraised value and apply the net proceeds of the sale toward the balance; or
- (iv) Provide the Lender with a deed in lieu of foreclosure.

(e) **Trusts.** Conveyance of a Borrower's interest in the Property to a trust which meets the requirements of the Secretary, or conveyance of a trust's interests in the Property to a Borrower, shall not be considered a conveyance for purposes of this Paragraph 9. A trust shall not be considered an occupant or be considered as having a principal residence for purposes of this Paragraph 9.

(f) **Mortgage Not Insured.** Borrower agrees that should this Security Instrument and the Note not be eligible for insurance under the National Housing Act within **SIXTY DAYS** from the date hereof, if permitted by applicable law Lender may, at its option, require immediate payment in full of all sums secured by this Security Instrument. A written statement of any authorized agent of the Secretary dated subsequent to **SIXTY DAYS** from the date hereof, declining to insure this Security Instrument and the Note, shall be deemed conclusive proof of such ineligibility. Notwithstanding the foregoing, this option may not be exercised by Lender when the unavailability of insurance is solely due to Lender's failure to remit a mortgage insurance premium to the Secretary.

10. **No Deficiency Judgments.** Borrower shall have no personal liability for payment of the debt secured by this Security Instrument. Lender may enforce the debt only through sale of the Property. Lender shall not be permitted to obtain a deficiency judgment against Borrower if the Security Instrument is foreclosed. If this Security Instrument is assigned to the Secretary upon demand by the Secretary, Borrower shall not be liable for any difference between the mortgage insurance benefits paid to Lender and the outstanding indebtedness, including accrued interest, owed by Borrower at the time of the assignment.

11. **Reinstatement.** Borrower has a right to be reinstated if Lender has required immediate payment in full. This right applies even after foreclosure proceedings are instituted. To reinstate this Security Instrument, Borrower shall correct the condition which resulted in the requirement for immediate payment in full. Foreclosure costs and reasonable and customary attorneys' fees and expenses properly associated with the foreclosure

proceeding shall be added to the principal balance. Upon reinstatement by Borrower, this Security Instrument and the obligations that it secures shall remain in effect as if Lender had not required immediate payment in full. However, Lender is not required to permit reinstatement if: (i) Lender has accepted reinstatement after the commencement of foreclosure proceedings within two years immediately preceding the commencement of a current foreclosure proceeding, (ii) reinstatement will preclude foreclosure on different grounds in the future, or (iii) reinstatement will adversely affect the priority of the Security Instrument.

**12. Lien Status.**

(a) **Modification.** Borrower agrees to extend this Security Instrument in accordance with this Paragraph 12(a). If Lender determines that the original lien status of the Security Instrument is jeopardized under state law (including but not limited to situations where the amount secured by the Security Instrument equals or exceeds the maximum principal amount stated or the maximum period under which loan advances retain the same lien priority initially granted to loan advances has expired) and state law permits the original lien status to be maintained for future loan advances through the execution and recordation of one or more documents, then Lender shall obtain title evidence at Borrower's expense. If the title evidence indicates that the Property is not encumbered by any liens (except this Security Instrument, the Second Security Instrument described in Paragraph 13(a) and any subordinate liens that the Lender determines will also be subordinate to any future loan advances), Lender shall request the Borrower to execute any documents necessary to protect the lien status of future loan advances. Borrower agrees to execute such documents. If state law does not permit the original lien status to be extended to future loan advances, Borrower will be deemed to have failed to have performed an obligation under this Security Instrument.

(b) **Tax Deferral Programs.** Borrower shall not participate in a real estate tax deferral program, if any liens created by the tax deferral are not subordinate to this Security Instrument.

(c) **Prior Liens.** Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender; (b) contests in good faith the lien by, or defends against enforcement of the lien in, legal proceedings which in the Lender's opinion operate to prevent the enforcement of the lien or forfeiture of any part of the Property; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to all amounts secured by this Security Instrument. If Lender determines that any part of the Property is subject to a lien which may attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Borrower shall satisfy the lien or take one or more of the actions set forth above within 10 days of the giving of notice.

**13. Relationship to Second Security Instrument.**

(a) **Second Security Instrument.** In order to secure payments which the Secretary may make to or on behalf of Borrower pursuant to Section 255(i)(1)(A) of the National Housing Act and the Loan Agreement, the Secretary has required Borrower to execute a Second Note and a Second Security Instrument on the Property.

(b) **Relationship of First and Second Security Instruments.** Payments made by the Secretary shall not be included in the debt under the Note unless:

(i) This Security Instrument is assigned to the Secretary; or

(ii) The Secretary accepts reimbursement by the Lender for all payments made by the Secretary.

If the circumstances described in (i) or (ii) occur, then all payments by the Secretary, including interest on the payments, but excluding late charges paid by the Secretary, shall be included in the debt under the Note.

(c) **Effect on Borrower.** Where there is no assignment or reimbursement as described in (b)(i) or (ii) and the Secretary makes payments to Borrower, then Borrower shall not:

(i) Be required to pay amounts owed under the Note, or pay any rents and revenues of the Property under Paragraph 19 to Lender or a receiver of the Property, until the Secretary has required payment in full of all outstanding principal and accrued interest under the Second Note; or

(ii) Be obligated to pay interest or shared appreciation under the Note at any time, whether accrued before or after the payments by the Secretary, and whether or not accrued interest has been included in the principal balance under the Note.



(d) **No Duty of the Secretary.** The Secretary has no duty to Lender to enforce covenants of the Second Security Instrument or to take actions to preserve the value of the Property, even though Lender may be unable to collect amounts owed under the Note because of restrictions in this Paragraph 13.

**14. Forbearance by Lender Not a Waiver.** Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy.

**15. Successors and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender. Borrower may not assign any rights or obligations under this Security Instrument or under the Note, except to a trust that meets the requirements of the Secretary. Borrower's covenants and agreements shall be joint and several.

**16. Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by first class mail unless applicable law requires use of another method. The notice shall be directed to the Property Address or any other address all Borrowers jointly designate. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given as provided in this Paragraph 16.

**17. Governing Law; Severability.** This Security Instrument shall be governed by Federal law and the law of the jurisdiction in which the Property is located. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end the provisions of this Security Instrument and the Note are declared to be severable.

**18. Borrower's Copy.** Borrower shall be given one conformed copy of the Note and this Security NON-UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

**19. Assignment of Rents.** Borrower unconditionally assigns and transfers to Lender all the rents and revenues of the Property. Borrower authorizes Lender or Lender's agents to collect the rents and revenues and hereby directs each tenant of the Property to pay the rents to Lender or Lender's agents. However, prior to Lender's notice to Borrower of Borrower's breach of any covenant or agreement in the Security Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower. This assignment of rents constitutes an absolute assignment and not an assignment for additional

If Lender gives notice of breach to Borrower: (a) all rents received by Borrower shall be held by Borrower as trustee for benefit of Lender only, to be applied to the sums secured by this Security Instrument; (b) Lender shall be entitled to collect and receive all of the rents of the Property; and (c) each tenant of the Property shall pay all rents due and unpaid to Lender or Lender's agent on Lender's written demand to the tenant.

Borrower has not executed any prior assignment of the rents and has not and will not perform any act that would prevent Lender from exercising its rights under this Paragraph 19.

Lender shall not be required to enter upon, take control of or maintain the Property before or after giving notice of breach to Borrower. However, Lender or a judicially appointed receiver may do so at any time there is a breach. Any application of rents shall not cure or waive any default or invalidate any other right or remedy of Lender. This assignment of rents of the Property shall terminate when the debt secured by this Security Instrument is paid in full.

**20. Foreclosure Procedure.** If Lender requires immediate payment in full under Paragraph 9, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the STATUTORY POWER OF SALE and any other remedies permitted by applicable law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Paragraph 20, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the STATUTORY POWER OF SALE, Lender shall mail a copy of a notice of sale to Borrower, and to other persons prescribed by applicable law, in the manner provided by applicable law. Lender shall publish the notice of sale, and the Property shall be sold in the manner prescribed by applicable law. Lender or its designee may purchase the Property at any sale. The proceeds of the sale

shall be applied in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

21. **Lien Priority.** The full amount secured by this Security Instrument shall have the same priority over any other liens on the Property as if the full amount had been disbursed on the date the initial disbursement was made, regardless of the actual date of any disbursement. The amount secured by this Security Instrument shall include all direct payments by Lender to Borrower and all other loan advances permitted by this Security Instrument for any purpose. This lien priority shall apply notwithstanding any State constitution, law or regulation, except that this lien priority shall not affect the priority of any liens for unpaid State or local governmental unit special assessments or taxes.

22. **Adjustable Rate Feature.** Under the Note, the initial stated interest rate of 6.5200 % which accrues on the unpaid principal balance ("Initial Interest Rate") is subject to change, as described below. When the interest rate changes, the new adjusted interest rate will be applied to the total outstanding principal balance. Each adjustment to the interest rate will be based upon the weekly average yield on United States Treasury Securities adjusted to a constant maturity of one year, as made available by the Federal Reserve Board in Statistical Release H.15 (519) ("Index") plus a margin. If the Index is no longer available, Lender will use as a new Index any index prescribed by the Secretary. Lender will give Borrower notice of the new Index.

Lender will perform the calculations described below to determine the new adjusted interest rate. The interest rate may change on the first day of DECEMBER, 2006, and on  that day of each succeeding  the first day of each succeeding month ("Change Date") until the loan is repaid in full.

The value of the Index will be determined, using the most recent Index figure available thirty (30) days before the Change Date ("Current Index"). Before each Change Date, the new interest rate will be calculated by adding a margin to the Current Index. The sum of the margin plus the Current Index will be called the "Calculated Interest Rate" for each Change Date. The Calculated Interest Rate will be compared to the interest rate in effect immediately prior to the current Change Date (the "Existing Interest Rate").

(Annually Adjusting Variable Rate Feature) The Calculated Interest Rate cannot be more than 2.0% higher or lower than the Existing Interest Rate, nor can it be more than 5.0% higher or lower than the Initial Interest Rate.

(Monthly Adjusting Variable Rate Feature) The Calculated Interest Rate will never increase above SIXTEEN AND 520/1000 percent ( 16.52000 %).

The Calculated Interest Rate will be adjusted if necessary to comply with these rate limitation(s) and will be in effect until the next Change Date. At any Change Date, if the Calculated Interest Rate equals the Existing Interest Rate, the interest rate will not change.

23. **Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument without charge to Borrower. Borrower shall pay any recordation costs.

24. **Waivers.** Borrower waives all rights of homestead exemption in the Property and relinquishes all rights of curtesy and dower in the property.

25. Riders to this Security Instrument. If one or more riders are executed by Borrower and recorded together with this Security Instrument, the covenants of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Security Instrument as if the rider(s) were a part of this Security Instrument. [Check applicable box(es.)

- Condominium Rider
- Shared Appreciation Rider
- Planned Unit Development Rider
- Other (Specify)

BY SIGNING BELOW, Borrower accepts and agrees to the terms contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

\_\_\_\_\_  
(Seal)  
NORMAN THAYER -Borrower

\_\_\_\_\_  
(Seal)  
-Borrower

[Space Below This Line For Acknowledgment]

COMMONWEALTH OF MASSACHUSETTS,

COUNTY SS:

On this <sup>22nd</sup> ~~15th~~ day of SEPTEMBER, 2006, before me personally appeared  
NORMAN THAYER

to me known to be the person S described in and who executed the foregoing instrument, and acknowledged that  
THEY executed the same as THEIR free act and deed.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[SEAL]