

The following example of language for notes with prepayment penalties is being provided in order to encourage standard language within the market place. Standardized language gives all parties a clear understanding relating to the application of prepayment penalties. All parties (investors, lenders, borrowers) benefit as pricing is affected by poorly written prepayment penalty language.

For the following example, we are using a USDA loan with a 5, 4, 3, 2, 1 point(s) prepayment penalty from note date. (Differing prepayment penalties will require language modification).

Example recommended language:

Prepayment penalty shall apply if the loan balance is prepaid in whole (100%) or in part (any prepayment of principal over the normal amortization.)

In the example above, the borrower can make partial principal prepayments at any time, but the prepayment is subject to penalty.

Below is an example of recommended language to be incorporated into the terms and conditions of the borrower's note. In the event of prepayment, in whole or in part, a prepayment penalty rate shall be assessed as follows:

1. If the prepayment occurs on or before the first anniversary date of the loan, the prepayment penalty will equal five percent (5%) of the principal amount prepaid.
2. If the prepayment occurs after the first anniversary date, but on or before the second anniversary date, the prepayment penalty will equal four percent (4%) of the principal amount prepaid.
3. If the prepayment occurs after the second anniversary date, but on or before the third anniversary date, the prepayment penalty will equal three percent (3%) of the principal amount prepaid.
4. If the prepayment occurs after the third anniversary date, but on or before the fourth anniversary date, the prepayment penalty will equal two percent (2%) of the principal amount prepaid.
5. If the prepayment occurs after the fourth anniversary date, but on or before the fifth anniversary date, the prepayment penalty will equal one percent (1%) of the principal amount prepaid.
6. Prepayment penalty shall not apply if the prepayment occurs after the fifth anniversary date.