

Agency Guides/Fannie Mae Multifamily/Delegated Underwriting and Servicing Guide/Part V: Servicing and Asset Management (08/16/07)/V, Chapter 1: Loan Servicing and Asset Management (08/16/07)/V, 106: Property and Liability Insurance (08/16/07)/V, 106.01: Insurance Policies (08/16/07)

V, 106.01: Insurance Policies (08/16/07)

The Lender must ensure that the Property is continuously covered by property and liability insurance policies, as required by Part III, Chapter 8 of this Guide, and that all bills for renewal premiums are paid on time. The Lender must periodically (no less frequently than annually) review the adequacy of the Borrower's insurance coverage in relation to the requirements of Part III, Chapter 8 of this Guide, as such requirements may be updated by Fannie Mae from time to time, and complete a new Description of Insurance Policies (see Exhibit III-11) in connection with each such review. If the existing insurance coverage is ever determined to be inadequate, the Lender must require the Borrower to make appropriate changes.

Originals or certified copies of all required property insurance policies, including any amendments, along with the original of the Lender's latest Description of Insurance Policies, must be kept in the Servicing File for each Mortgage. An ACORD 27 form combined with ACORD 25S or ACORD 75S ("Evidence of Property Insurance") are acceptable as temporary evidence of insurance, but the Lender may not accept a binder, unless required to do so by state law. (If state law requires the acceptance of a binder as evidence of insurance, the Lender must ensure that the binder is renewed no less frequently than every 60 days.) Evidences of coverage such as policy declaration pages, single policy endorsements, insurance binders and certificates of insurance are not an acceptable form of permanent insurance coverage; only the complete insurance policy is evidence of coverage.

On an annual basis, the Lender must make certain representations to Fannie Mae regarding the property and liability insurance policies for all of the Lender's Mortgages.

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V, 106.02: Flood Insurance (08/16/07)

The Lender is ultimately responsible for monitoring and being aware of all flood map and community status changes and for taking appropriate action when changes affecting Mortgages in its portfolio occur regardless of whether it performs the monitoring itself or relies on a flood zone determination company (see Part III, Section 801.05 of this Guide for additional guidance on flood zone determination companies). The Lender need not review its entire portfolio for each map change, but it should review the portion of its portfolio that is affected by a specific remapping. Any Lender that wishes to review map changes itself may access any of the following to obtain remapping information: (1) FEMA flood maps, (2) the Federal Register, or (3) FEMA's compendium of map changes.

When the Lender determines that a Property has been remapped into a Special Flood Hazard Area and the community in which the Property is located is "participating" in the National Flood Insurance Program (NFIP), the Lender must require the Borrower to obtain flood insurance. The Lender should encourage the Borrower to obtain coverage as quickly as possible — the flood insurance policy should be in place within 120 days after the effective date of the remapping. If the Borrower refuses to obtain the required coverage or to pay a disputed premium, the Lender must obtain the required coverage, as part of its responsibility for protecting Fannie Mae's interest in the Property.

If the community in which a remapped Property is located is a "nonparticipating" community under the

NFIP, the Lender should assist the Borrower in locating a private insurance carrier that can underwrite an acceptable flood insurance policy. If acceptable insurance coverage cannot be obtained, the Lender must contact Multifamily Asset Management to determine the appropriate course of action.

After the flood insurance policy is obtained, the Lender must place an updated copy of the Description of Insurance Policies (Exhibit III-11) in the Servicing File.

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V, 106.03: Casualty Losses - Performing Loans (08/16/07)

When a casualty loss occurs, the Borrower is required by the Security Instrument to give immediate notice of the loss to the Lender and the insurance carrier. For all performing Mortgage Loans, the Lender must take appropriate steps to assess the extent and impact of the damage; consult with the Borrower to ensure that the damage will be appropriately addressed; and otherwise act to protect Fannie Mae's interests.

Within 30 days of first learning of the casualty loss, the Lender must document its servicing records with the results of its casualty loss assessment. At a minimum, the Lender must address the following points in its servicing files:

1. when the casualty loss occurred and when the Lender was first apprised of it;
2. the scope of the damage and its effect on the Property (e.g., impact on the habitability of the building (s), safety of the residents, project occupancy, and project income and expenses);
3. the Borrower's general plan of action for securing and restoring the damaged portion of the Property, and the status of the Borrower's efforts to implement such plan, including the status of specific steps that need to be taken, such as the temporary relocation of tenants, preparation of plans and specifications, awarding of contracts, commencement of repair work, etc.;
4. whether there are any environmental problems associated with the damage, and if so, how they will be addressed;
5. the projected cost to repair and restore the damaged improvements (any available information on contractors' bids or actual contract awards should be included);
6. whether the casualty loss is covered by the Borrower's insurance policy, the status of any insurance claim filed (or to be filed) by the Borrower, and an estimate of the amount of funds expected to be received from the insurance carrier in connection with the claim;
7. the estimated amount of additional funds that the Borrower will have to provide from its own resources to complete all necessary repair and restoration work, and the current availability of such funds; and
8. any other relevant information pertaining to the loss event that is known to the Lender and could have a material bearing on Fannie Mae's interests.

As part of its assessment of any casualty loss that is expected to exceed the lesser of \$500,000 or 20 percent of the unpaid principal balance of the Mortgage, the Lender must inspect the Property, take photographs of the damage, and complete a Fannie Mae Catastrophic Loss Inspection (Form 4261). (It is generally advisable for the Lender to perform an inspection following any reported casualty loss, regardless of the magnitude of the loss; however, the Lender may, in its discretion, forgo such an inspection if it

determines, based on information provided by the Borrower or other reliable sources, that the casualty loss is not likely to exceed the lesser of \$500,000 or 20 percent of the unpaid principal balance of the Mortgage.) If the Lender is required (or elects) to perform an inspection of the Property, the Lender should retain in its servicing files with the assessment described in the preceding paragraph, a copy of the completed Fannie Mae Catastrophic Loss Inspection (Form 4261) and photographs of the damaged portions of the Property. If the Lender is required to perform an inspection of the property, the Lender should send a copy of the Form 4261 and the photographs to Fannie Mae via Drawer AM per the guidance in this Section.

If the Lender is not required to inspect the property and forgoes an on-site inspection, the Lender should document in its Servicing files that the work was completed satisfactorily during the Lenders's next regularly scheduled Property Inspection as required under Chapter 2 of this Part of the Guide.

For any casualty loss that is covered by the Borrower's insurance policy, the Lender must ensure that the Borrower files a timely proof of loss with the insurance carrier and otherwise acts to effect a prompt and reasonable adjustment of the loss. If the Borrower fails to file a proof of loss with the insurance carrier in a timely manner and/or take any other requisite steps to effect a prompt adjustment of the loss claim, the Lender should independently contact and work with the insurance carrier to adjust the loss claim.

Any insurance loss draft or check issued by the insurance carrier in connection with the loss must be made payable in accordance with the mortgage clause to Fannie Mae in care of the Lender. The Lender is delegated the authority to endorse any insurance loss draft or check on Fannie Mae's behalf. The Lender should endorse the check as follows:

Fannie Mae
By: Name of Lender
By: Name of Lender's Authorized Signer
Title of Lender's Authorized Signer

Occasionally, the Lender may receive an insurance loss draft or check that is not payable to Fannie Mae. If the draft or check is payable to the Lender, the Lender is authorized to endorse the draft or check and apply the proceeds in accordance with this Section. In addition, the Lender must send notice to the Insurer that all future insurance loss drafts and checks must be issued in accordance with the mortgage clause to Fannie Mae in care of the Lender (Exhibit V-24) and retain a copy of the notice in the Lender's servicing files. If the insurance loss draft or check is not made payable to either Fannie Mae or the Lender, the Lender must return it to the insurance carrier, with a request to have the loss draft or check reissued in the name of Fannie Mae, in care of the Lender, in accordance with the mortgage clause.

The Lender also must document its servicing files with a completed Report of Multifamily Hazard Insurance Loss (Form 178, Exhibit V-1), which must include the Lender's decision regarding the application of the insurance proceeds. Based upon the Borrower's general plan of action and the Lender's overall assessment and provided none of the four conditions listed below exist, the Lender will also have the authority to (i) use the proceeds to reimburse the Borrower for the cost of repairing the damage and restoring the Property to habitable condition and, (ii) if applicable, deposit the insurance loss proceeds in a Collateral Agreement Custodial Account to be governed by an executed Insurance Loss Proceeds Collateral Agreement (Form 4541).

However, even if none of the four conditions exists, the Lender may recommend to Fannie Mae that the proceeds be applied to the unpaid principal balance of the Mortgage.

If, however, any one or more of the following four conditions does exist, the Lender must notify Multifamily Asset Management in writing of its findings and send to Fannie Mae a completed Fannie Mae Catastrophic Loss Inspection (Form 4261) and a completed Report of Multifamily Hazard Insurance Loss (Form 178), which must include the Lender's recommendation regarding the application of the insurance proceeds.

The four conditions are as follows:

1. a default or Event of Default exists under the Security Instrument;
2. the combination of insurance proceeds and Borrower-supplied funds are not sufficient to complete the necessary repairs to the Property to restore it to habitable condition;
3. an up-front determination is made that, upon completion of the repair and restoration work, the Property will not be capable of generating sufficient income to cover all operating expenses, required Replacement Reserve deposits, and debt service payments on the Mortgage; or,
4. the repair and restoration work will not be completed within a reasonable period of time, i.e., by the earlier of (i) the maturity date of the Mortgage Loan, or (ii) within one year from the date of the casualty loss occurrence.

Fannie Mae may then decide, in its sole discretion, to require that the insurance loss proceeds be applied to the unpaid principal balance of the Mortgage; however, Fannie Mae may decide to require that such proceeds be used to repair and restore the Property, notwithstanding a finding that one or more of the above conditions has not been met.

If none of the above conditions exists and notification to Fannie Mae is deemed to not be required, the Lender may endorse the loss draft or check and directly reimburse the Borrower for proceeds already expended from its own resources. If the Lender decides to hold the proceeds for use in reimbursing the Borrower for the cost of repairing and restoring the Property, the Lender must:

1. deposit the insurance loss proceeds in a Custodial Account (which may be a separate account or may be commingled with other T&I funds), meeting the requirements of Part VI, Chapter 1 of this Guide;

(NOTE: A Letter of Authorization for Multifamily Collateral Agreement Custodial Account (Form 2051, Exhibit VI-9) must be executed for the Custodial Account and submitted to Multifamily Asset Management.)

2. require the Borrower to deposit, in the same Custodial Account, funds equal to the difference between (a) the Lender's estimate of the total cost to repair and restore the Property to its pre-casualty condition, and (b) the amount of the insurance proceeds; and
3. prepare, and have the Borrower execute, two originals of an Insurance Loss Proceeds Collateral Agreement (Form 4541), specifying the terms and conditions under which the funds held in the Custodial Account will be released to the Borrower.

The Lender is responsible for preparing the Insurance Loss Proceeds Collateral Agreement and obtaining the Borrower's signature. The Lender is delegated the authority to sign the Insurance Loss Proceeds Collateral Agreement on Fannie Mae's behalf, or as attorney-in-fact. The signature block must be signed "[Name of Lender], as Attorney-in-Fact for Fannie Mae." Within 7 days of execution, the Lender must send copies of the Insurance Loss Proceeds Collateral Agreement (Form 4251), the Report of Multifamily Hazard Insurance Loss (Form 178), Exhibit V-1) and if required and if completed, a copy of Fannie Mae Catastrophic Loss Inspection (Form 4261) to Fannie Mae at the following address:

Fannie Mae
Attention: Multifamily Asset Management
Drawer AM
3900 Wisconsin Avenue, NW
Washington, DC 20016

If not available within 7 days of execution, the Lender should send the Fannie Mae Catastrophic Loss Inspection (Form 4261) within 7 days of completion. The Lender should retain the original Insurance Loss Proceeds Collateral Agreement, the Fannie Mae Catastrophic Loss Inspection (Form 4261) and the Report

of Multifamily Hazard Insurance Loss (Form 178), Exhibit V-1) in its servicing files.

Before the Lender permits the Borrower to begin any repair or restoration work, other than emergency work to protect the Property or correct a condition threatening the health and safety of the tenants, the Lender must:

1. have on deposit in a Custodial Account all funds, including the Borrower's funds in excess of the insurance loss proceeds, estimated to be necessary to complete the repair and restoration work;
2. have in its possession, copies of all applicable building permits and other permits/authorizations required to carry out the repair and restoration work;
3. review (or have a qualified professional review) and approve any plans and specifications relating to the repair and restoration work; and
4. know the identities of the principal contractor(s), architect(s), and engineer(s) who will be involved in the repair and restoration work, and be satisfied with their qualifications.

The Lender is responsible for approving the Borrower's requests for disbursements of funds held pursuant to an Insurance Loss Proceeds Collateral Agreement. Disbursements of funds to the Borrower during (or after) the repair and restoration process should be made only in accordance with the provisions of the applicable Insurance Loss Proceeds Collateral Agreement. The governing Insurance Loss Proceeds Collateral Agreement should provide that:

1. disbursements will be made no more frequently than once a month (unless the Lender determines that more frequent disbursements of funds are appropriate and can be managed effectively by the Lender);
2. each of the Borrower's disbursement requests must be in writing, and should specify, at a minimum:
 - (a) the specific repair and restoration work for which reimbursement is being sought;
 - (b) the quantity and price of all materials (grouped by type or category) or specific replacement items (e.g., appliances) purchased in connection with the repair and restoration work for which reimbursement is being sought; and
 - (c) the cost of all contracted labor or other services involved in completing the repair and restoration work for which reimbursement is being sought.
3. each of the Borrower's disbursement requests must be accompanied by:
 - (a) a certification by the Borrower that the repair and restoration work covered by the disbursement request has been completed in a good and workmanlike manner; in accordance with any plans and specifications previously approved by the Lender; and in compliance with all applicable laws, ordinances, rules, and regulations of any governmental authority, agency, or instrumentality having jurisdiction over the Property;
 - (b) copies of invoices and evidence of payment for all items/materials purchased and all labor/services provided in connection with the repair and restoration work; and
 - (c) an acknowledgment of payment and release of lien from each contractor, subcontractor, or materialman providing services and/or materials in connection with the repair and restoration work covered by the disbursement request.
4. the amount of each disbursement (other than the final disbursement) may not exceed the lesser of (a) or (b) below:

- (a) an amount equal to:
 - (i) the actual cost of the repair and restoration work covered by the disbursement request, or, if such work was done under a contract or subcontract pursuant to which other work remains to be done, an amount equal to 90 percent of the actual cost of the repair and restoration work covered by the disbursement request (i.e., a 10 percent holdback should be required if the work under the applicable contract or subcontract has not been completed in full); PLUS
 - (ii) 100 percent of the cost of any materials used, or to be used, in connection with the repair and restoration work, if at the time of the disbursement request, title to such materials has passed to the Borrower and such materials have been installed, or are being properly stored, on the Property; or
 - (b) an amount equal to the difference between:
 - (i) the balance of the Collateral Agreement Custodial Account at the time of the disbursement request; and
 - (ii) the estimated cost of all remaining repair and restoration work at that time of the disbursement request; and
5. upon satisfactory completion of all required repair and restoration work, and satisfaction of all other applicable conditions of the Insurance Loss Proceeds Collateral Agreement, a final disbursement of all remaining funds will be made to the Borrower.

Before making any disbursement of funds, including the final disbursement, to the Borrower in response to a disbursement request, the Lender must be satisfied that:

1. all repair and restoration work covered by the disbursement request has been completed in a good and workmanlike manner and in accordance with any applicable plans and specifications, as evidenced by submissions from the Borrower and, if applicable, by the Lender's or a qualified professional's inspection of the completed work;
2. all related invoices for items and services covered by the disbursement request have been paid, unless the Borrower has satisfied any applicable pre-conditions of the Insurance Loss Proceeds Collateral Agreement for issuance of a joint check(s), made payable to the Borrower and the party (ies) owed funds under such invoices;
3. there are no outstanding mechanic's or materialmen's liens that have not been properly bonded off; and
4. the Borrower is not in default under the Security Instrument or any other Loan Document, including the Insurance Loss Proceeds Collateral Agreement.

The Lender must ensure that the action taken with respect to each Borrower disbursement request is appropriately documented in its files.

The Lender should use its discretion in deciding whether or not periodic Lender inspections should be conducted during the course of the repair and restoration work. In any case involving a casualty loss exceeding the lesser of \$500,000 or 20 percent of the unpaid principal balance of the Mortgage, a final inspection of the completed work must be performed by the Lender before the final disbursement of funds is made to the Borrower; a final inspection need not be performed by the Lender if the casualty loss does not exceed the lesser of \$500,000 or 20 percent of the unpaid principal balance of the Mortgage.

If the Lender is not required to inspect the property and forgoes an on-site inspection, the Lender should

document in its Servicing files that the work was completed satisfactorily during the Lenders's next regularly scheduled Property Inspection as required under Chapter 2 of this Part of the Guide.

Should the Borrower fail to proceed diligently with any necessary repair and restoration work, fail to perform such work satisfactorily, or otherwise fail to perform in accordance with the terms of the Insurance Loss Proceeds Collateral Agreement, the Lender should alert Multifamily Asset Management immediately. The Lender's notice to Multifamily Asset Management should include a description of any steps that the Lender is taking to resolve or otherwise address the situation. If the Borrower fails to complete the scheduled work in a timely or satisfactory manner, Fannie Mae may require the Lender to assume responsibility for the completion of the remaining work.

If the insurance loss proceeds made available by the insurance carrier include an amount of funds specifically designated to defray administrative and/or inspection costs incurred by the mortgagee in connection with the casualty loss, the Lender may reimburse itself from such designated amount for its actual, reasonable administrative and/or inspection costs. If no such provision is made in the loss proceeds, the Lender may not seek reimbursement for its costs from the proceeds, nor may the Lender seek reimbursement separately from the Borrower.

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V, 106.04: Casualty Losses -- Nonperforming Loans (08/16/07)

For all nonperforming Mortgage Loans, any activity or action plans to repair and restore the Property must be coordinated with Fannie Mae's Special Asset Management business unit. All insurance loss drafts and checks must be forwarded to Special Asset Management for endorsement and disposition. Please refer to Part V, Chapter 5 of this Guide for further information.