



Bulletin

NUMBER: M2016-1

TO: Freddie Mac Multifamily Sellers and Servicers

February 29, 2016

SUBJECTS

With this Bulletin for the Multifamily Seller/Servicer Guide (Guide), we are:

- Introducing a new form, the Preliminary Legal Issues Memorandum Form – Servicing, that the Servicer’s legal counsel must use when preparing a PLIM in connection with a Borrower request for approval of a Servicing transaction
- Adding new requirements for underwriting tenant improvements and leasing commissions
- Revising the threshold for Freddie Mac’s consideration of income from a commercial or oil and gas lease when there is a request to approve the lease
- Making the following changes to our requirements for tax abatements:
 - Adding guidelines for underwriting Properties with potential tax abatements
 - For certain tax abatements that could be lost during the term of the loan, adding a provision for recourse if the tax abatement is not maintained during the term of the Mortgage
- Changing our delivery instructions to permit delivery of an electronic copy of any cap agreement or replacement cap agreement rather than an original
- Changing the method of electronic delivery Servicers must use when submitting backup documentation related to loan compliance reporting
- Clarifying requirements for the documents which the Servicer submits for a property management change
- Clarifying our requirements for monitoring a depository institution’s eligibility status
- Discontinuing the use of Form 1141, Annual Production Summary
- Updating our survey requirements to refer to the National Society of Professional Surveyors
- Updating the Glossary to remove references to the Multifamily Negotiated Transactions Program

We are also revising Chapters 3, 8, 11 and 43 of the Small Balance Loan (SBL) Addendum.

Effective dates

Except for the changes to the survey requirements, all revisions announced by this Bulletin are effective immediately. The change to the survey requirements will be effective for any survey which is ordered after March 15, 2016.

Conclusion

More details on these changes are provided on the pages that follow. Guide text for the changes announced in this Bulletin is highlighted in green on AllRegs. If you have any questions about this Bulletin, please call your Freddie Mac representative.

Sincerely,

David Brickman
Executive Vice President
Multifamily

Preliminary Legal Issues Memorandum Form – Servicing

We are now requiring that the Servicer's legal counsel use a new form when preparing a PLIM in connection with a Borrower request for approval of a Transfer of Ownership or other Special Servicing Request. This change will help ensure that the PLIM contains all of the information required by Freddie Mac and will reduce the amount of time needed to complete the servicing request.

Section 6.4 of the Guide has been revised to require the use of the new Preliminary Legal Issues Memorandum Form – Servicing, which can be found on the Legal Documents page of FreddieMac.com under Loan Execution Documents/Miscellaneous. This change does not apply to SBL Mortgages.

Underwriting Tenant Improvements and Leasing Commissions

We are revising Section 8.11(c) of the Guide and Section 8.11(c) of the SBL Addendum to provide instructions for deducting tenant improvements and leasing commissions from Net Operating Income when underwriting Properties with commercial income. We are also adding requirements for an escrow or credit enhancement that Freddie Mac may require for current or future tenant improvements or leasing commissions.

Freddie Mac's Review of Requested Commercial or Oil and Gas Lease

We are revising our Servicing requirements to state that when Freddie Mac is reviewing a request for approval of a commercial lease or oil and gas lease, it may consider whether income from the lease is less than five percent of total gross potential rent for the Property. Previously, the threshold was 10 percent. This change can be found in Guide Section 43.24(c) and in Section 43.25(c) of the SBL Addendum.

Addition to the Tax Abatement Requirements

We are adding a new Guide section to provide underwriting guidelines for Properties with tax abatement in the following situations:

- The Mortgage is for the acquisition of a Property that previously had a tax abatement, but the Borrower has not received approval to assume the tax abatement as of the Origination Date.
- The Property does not have a tax abatement but the Borrower has applied or will apply for a tax abatement.

The new section also contains information on steps Freddie Mac may take if it has underwritten a Mortgage using the amount of the abated taxes, but the tax abatement has not been received within 12 months of the Origination Date.

We are also adding a requirement that the Borrower be personally liable for any loss or damage to Freddie Mac if the tax abatement is not maintained during the term of the Mortgage.

These provisions, which do not apply to SBL Mortgages, can be found in Guide Sections 8.18(c) and 8.18(g).

Delivery of a Cap Agreement

We are revising Guide Section 11.3(d) and Section 11.3(d) of the SBL Addendum to state that the Borrower must deliver an electronic copy of the cap agreement to the Seller/Servicer, who must deliver an electronic copy of the cap agreement to Freddie Mac in the Final Delivery Package.

Submitting Servicing Documentation to Freddie Mac

Freddie Mac is streamlining and centralizing the way Servicers report status updates on repairs and other requirements under the Loan Agreement. Specifically, we are revising instructions in the Guide for submitting the following documentation:

- Borrower Certification – Completion of Repairs form, as described in Section 39.4(a)
- Borrower Certification – Partial Completion of Repairs form, and related updates, as described in Section 39.4(b)
- Radon Test Results, Radon Remediation Notices, and Post-Mitigation Test Results, as described in Section 43.26

We have also revised Section 39.1(a) in support of these changes. The changes relating to Borrower Certifications apply to SBL and non-SBL Mortgages. However, the changes with respect to radon reporting in Section 43.26 do not apply to SBL Mortgages.

Clarification to Procedures on Property Management Changes

We are making the following clarifications to our instructions to Servicers on property management changes:

- When Freddie Mac's review of a property management change is not required, the Servicer must submit to Freddie Mac the original Assignment of Management Agreement and Subordination of Fees (New Property Manager) and the other documents specified in Section 43.19(b)
- When Freddie Mac's review of a property management change is required, after the Servicer receives Freddie Mac approval, the Servicer must deliver to Freddie Mac
 - A copy of the property management agreement in the form approved by Freddie Mac,
 - The original, executed Assignment of Management Agreement, and
 - Any other documents specified in the approval letter.

These clarifications, which do not apply to SBL Mortgages, can be found in Sections 43.19(b) and 43.19(e).

Monitoring Institutional Eligibility

In Section 52.9 we are clarifying that Servicers must monitor a depository institution's eligibility status no less frequently than monthly, since depository institutions rated by Fitch Ratings, Standard & Poor's Ratings Group or Moody's Investors Service may receive rating changes at any time.

Discontinuing the Annual Production Summary

As noted in our recent email to Seller/Serviceicers, in support of our goal of making it easier to work with Freddie Mac, we have removed from Guide Section 3.7 and Section 3.7 of the SBL Addendum the requirement to submit Form 1141, Annual Production Summary.

Update to Survey Requirements

We are revising Sections 29.5(a) and 29.5(b) to refer to the National Society of Professional Surveyors (NSPS) instead of the American Congress of Surveying and Mapping (ACSM), to reflect the merger of ACSM into the NSPS.

Administrative Change to the Glossary

We are updating the definition of Funding Date in the Glossary to replace a reference to the Negotiated Transactions Program with a reference to Structured Transactions.